

NORTH CAROLINA DEPARTMENT OF INSURANCE
RALEIGH, NORTH CAROLINA

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE MATTER OF:

BEFORE THE
COMMISSIONER OF INSURANCE

THE FILING DATED
JANUARY 3, 2024 BY
NORTH CAROLINA RATE BUREAU
FOR THE REVISION OF
HOMEOWNERS INSURANCE RATES

COPY

DOCKET NO. 2157

**CONTAINS EXTRACTED CONFIDENTIAL TESTIMONY PER
TERMS OF THE PROTECTIVE ORDER **

BEFORE: AMY FUNDERBURK, HEARING OFFICER

TRANSCRIPT

OF

HEARING

VOLUME VIII - A.M. SESSION

Raleigh, North Carolina

October 25, 2024

9:03 a.m.

Reported by: Audra Smith, RPR, CRR, FCRR

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Hearing in the matter of the filing dated January 3, 2024, by the North Carolina Rate Bureau for Revised Homeowners Insurance Rates, at the North Carolina Department of Insurance, 3200 Beechleaf Court, Raleigh, North Carolina, on the 25th day of October, 2024, at 9:03 a.m., before Audra Smith, RPR, CRR, FCRR and Notary Public

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P R O C E E D I N G S

MS. FUNDERBURK: Good morning,
everyone. We're back on the record. It's
9:03, October 25, 2024.

I appreciate everyone's patience as we
continue to work out just some of the
technical issues. As I think you are all
aware, this is not quite the first hearing.
I think we had one licensure hearing in this
room previously, but this is certainly the
first long hearing we're having, and we're
working on making sure that everything is as
functional and we are having to make some
tweaks here and there to make sure that's the
case.

Before we commence this morning with
your redirect, Mr. Spivey, are there any
preliminary or administrative matters we need
to address?

MR. SPIVEY: Not to my knowledge.

MR. FRIEDMAN: Nor do I have anything.

MS. FUNDERBURK: Thank you.

Then, Mr. Ericksen, I'm going to remind
you you continue to be under oath.

Mr. Spivey, please proceed with your

1 redi rect.

2 MR. SPIVEY: Certainl y.

3 PAUL ERICKSEN,

4 havi ng been previ ously duly sworn, was exami ned and testi fi ed
5 as fol l ows:

6 REDIRECT EXAMINATION

7 BY MR. SPIVEY:

8 Q Good morni ng, Mr. Erick sen. On
9 Wednes day morni ng thi s week, I asked you some
10 questi ons on di rect regardi ng the work you di d to
11 satis fy yoursel f as to the -- wheth er it was
12 reasona ble to rely on the output of the hurri cane
13 model s, and then departm ent counsel asked you
14 severa l questi ons on the topic duri ng hi s
15 cross-exami nati on.

16 Do you recal l general ly that li ne of
17 questi ons?

18 A Yes.

19 Q In hi s questi ons, departm ent counsel
20 made severa l referen ces to your revi ewi ng 20 years
21 of hi stori cal data or referri ng to your 20-year
22 anal ysi s of hurri cane l ossi es.

23 Do you recal l those referen ces
24 genera l l y?

25 A Yes.

1 Q Do I understand correctly that in
2 satisfying yourself that it was reasonable to rely
3 on the output of the hurricane models, you looked at
4 both the frequency and the severity of storms
5 separately?

6 A That's correct. We looked -- I looked
7 at frequency and severity separately, not on a
8 combined total loss basis.

9 Q So what time period did you review when
10 you were considering the frequency of storms?

11 A So for frequency I did not rely just on
12 a 20-year period. In fact, I relied upon the full
13 data that's available on the HURDAT data file, which
14 goes back to 1851. So I -- in developing frequency
15 information, I relied upon a 173-year time period
16 from 1851 through 2023.

17 Q What, then, did you look at when you
18 were reviewing the severity of storms and why?

19 A One other thing I just wanted to
20 comment on, on the frequency also, just to add to
21 that. And why I would have looked at such a time
22 period for frequency and not just the 20-year period
23 or 30 or 40 or 50 years.

24 One consideration that I took into
25 account is even the Florida hurricane loss

1 protection methodology -- I might be saying that
2 wrong, but when they established their standards
3 that models must conform to in Florida, they
4 actually dictated -- it's a requirement that each of
5 the models take into account hurricane information
6 going back to at least 1900.

7 So there would be a requirement that
8 if -- you would need to go back to at least -- you
9 would need to consider, essentially, 120-plus years
10 to meet their burden of having a sufficient time
11 period.

12 So in my opinion, relying upon, you
13 know, a time period for frequency at least for less
14 than 100 years would not be an accepted practice, at
15 least in Florida, and more generally, in my opinion.

16 Q Okay. So then let's -- let me ask my
17 question again about severity.

18 So you stated you looked at severity
19 separately. What did you look at when reviewing the
20 severity of storms and why?

21 A So for severity there is much less
22 information -- by "severity," what I mean is not the
23 annual losses that are happening in any given year,
24 but sort of the severity of a single hurricane
25 event. In a given year there can be more than one

1 hurricane, there can be no hurricanes, but we're
2 looking at the severity of the loss associated with
3 any one hurricane event.

4 Twenty years -- well, taking a step
5 back, the HURDAT data file that I had referred to
6 gives detailed information about hurricanes,
7 landfall, where they landed, wind speeds. It does
8 not include any information about losses. And even
9 if it did, the loss information from 100 years ago
10 wouldn't be representative of today anyway. But --
11 so we're restricted to industry aggregate insurance
12 data that had been reported on a much more recent
13 time period.

14 Approximately 20 years is data that we
15 have available as part of current and prior rate
16 filings for the NCRB. It's been provided upon
17 discovery or included in the filing itself. So I'm
18 restricted to using a relatively short time period
19 of 20 years. And within that was really only the
20 handful of years within that where there was a
21 hurricane that made landfall in North Carolina.

22 Q When you looked at those data over that
23 period and looked at the storm, the current year
24 during that period, what were you comparing with --
25 to -- what were you looking at compared to the

1 models to see how the models performed or to give
2 you some confidence in the way the models were
3 performing?

4 A So what I looked at is I isolated the
5 current hurricane events within that time period
6 that made landfall in North Carolina. There are
7 only about five such storms. Certainly, they don't
8 represent the full range of hurricanes that could
9 make landfall. Just a very small sampling. But
10 they were real events and they resulted in real
11 losses that we have at least a handful of point
12 estimates of individual storms that we can use to
13 just sort of -- I would say -- kick the tires of the
14 hurricane models; see what would the hurricane
15 models, both separately for the AMR and RMS models,
16 what losses would they project for similar type of
17 storms that actually happened in North Carolina.

18 So, for example, the AIR model might
19 simulate 100,000 years' worth of events, some in
20 North Carolina, some make landfall in other states.
21 Some are category 1, category 2 or 3 or what have
22 you.

23 But what I was able to do was isolate,
24 you know, separately for each model what type of --
25 isolate the subset of storms that were similar in

1 nature to the storms that actually occurred to sort
2 of see, Hey, do the models produce results that are
3 in line for the aggregate for those handful of
4 storms. Do they produce results that look generally
5 reasonable.

6 Q Mr. Ericksen, do you recall questions
7 from department counsel on cross-examination
8 regarding whether the 2022 data is available or when
9 that data may be available?

10 A Yes.

11 Q First of all, can you explain again
12 just what is it we're referring to when we say "the
13 2022 data"?

14 A So 2022 data would be the calendar
15 accident year 2022 data. It would be a value -- it
16 would represent all claims, for example, that
17 occurred in accident date year 2022. Again, it
18 would need to be evaluated three months after the
19 end of that year, so it would be evaluated as of
20 March 31, 2023.

21 Q Is it commonplace in your experience
22 for a rate filing to be pending for such a period
23 that a later year of experience might become
24 available while that filing is still pending?

25 A That's generally a very unusual

1 situation. Usually a rate filing would reflect --
2 you know, a rate filing would reflect the most
3 recent data that's available at the time that the
4 filing is made. So if -- the filing would typically
5 need to be pending for several months or potentially
6 approaching a year before such new data would become
7 available, and that's usually not the case.

8 Q If the 2022 data became available while
9 this homeowners insurance rate filing was pending,
10 what could we do with those data?

11 A Not a lot for a pending filing. I
12 mean, the receipt of a new year's worth of data
13 would really represent the start of a brand-new rate
14 analysis. It's not something that could simply be
15 appended to an existing analysis. Why would that be
16 the case?

17 There's -- it's not possible to simply
18 change one parameter or one element of an analysis
19 because it's such a interconnected set of
20 calculations that change in one item -- let's say
21 bringing in new -- one years' worth of experience,
22 well, now we have outdated -- that would say now we
23 have an outdated model, hurricane models, because
24 while the hurricane models that were included in the
25 filing were run on exposures for 2021. So if now

1 we're all of a sudden including statistical data for
2 2022, that would require the updating of the
3 hurricane models, which would require another couple
4 of months added to the process. Now, since we have
5 updated hurricane models, that means we would need
6 to reflect updated reinsurance cost, which is going
7 to add additional process. And interspersed among
8 all of those different segments of analysis there
9 would need to be committee meetings to make
10 decisions and selections to proceed.

11 So to really -- to summarize it, it
12 wouldn't be possible to simply append a new year's
13 worth of data to an existing filing. It would
14 represent the commencement of the start of a
15 brand-new analysis to be conducted in the future.

16 Q Mr. Ericksen, do you still have the
17 book there that contains the rate filing in
18 Exhibit RB-1. I'd like you to turn, if you would,
19 to page E-291 in Exhibit RB-1.

20 A Yes.

21 Q Now, on cross-examination department
22 counsel pointed you to that page, did he not?

23 A Yes.

24 Q And explain to us again, what is this
25 page showing?

1 A This page is called -- is titled
2 "Companies Paying Homeowners Insurance Dividends,"
3 so it lists for each of the past five years
4 insurance companies that actually paid dividends
5 during each of those years.

6 Q Is it correct that the North Carolina
7 statutes, in G.S. 58-36-10 specify that policyholder
8 dividends are to be given due consideration when
9 making rates, right in the same list that lists
10 things like actual historical losses and expenses?

11 A That's correct. It's an explicitly
12 listed item to be considered.

13 Q Is it correct that the actuarial
14 standards practice states that policyholder
15 dividends are a cost of the risk transfer that
16 should be reflected in rates when you're making
17 rates?

18 A That's correct.

19 Q Please turn to the next page,
20 page E-292?

21 A Which page? I'm sorry.

22 Q E-292.

23 A Okay. Yes.

24 Q Is it correct that this page shows the
25 dollar amount of policyholder dividends paid by

1 companies that paid policyholder dividends?

2 A Yes.

3 Q And does this page show the percentage
4 of premium that those companies aggregated, paid in
5 dividends?

6 A Yes.

7 Q Which column shows the percentage
8 that the companies paying dividends paid?

9 A So the column all the way on the
10 right-hand side, which is labeled "Overall
11 Percentage of Dividends," lists the percentage of
12 premium attributed dividends. It ranges from
13 roughly .4 percent to roughly .6 percent. It's a
14 relatively stable percentage from year to year.

15 Q And is it correct that that right-hand
16 column -- far right column shows a percentage which
17 would be the dollars of the dividends paid for the
18 numerator, and the denominator would be the
19 statewide total premium?

20 A Correct.

21 Q And what is the column just to the left
22 of that column, what does that column show?

23 A Percentage Dividends of Companies With
24 Dividends.

25 Q What's your understanding of what that

1 column is showing?

2 A My understanding is that would be the
3 percentage that would apply just to the handful of
4 companies that are paying dividends.

5 Q So just looking at that column, we can
6 say roughly that the company paying dividends was
7 probably paying approximately 10 percent of premium
8 as a dividend?

9 A That's correct. It fluctuates between
10 generally 8 percent and 11 percent, with something
11 around 10 percent would be representative, correct.

12 Q And then when you take that dollar
13 amount ratio to the statewide premium, as you said,
14 it turns out to be about half a percent?

15 A Yes, that's correct.

16 Q Am I understanding what that half
17 percent reflects is that the composite industry in
18 North Carolina -- well, the single aggregate
19 company, on average, over the five years shown
20 there, made approximately half a percent of
21 policyholders dividends each year?

22 A That's correct, yes.

23 Q Does the fact that only a few companies
24 paid policyholder dividends impact in any way the
25 fact that when all of the companies are aggregated

1 and viewed as a single company, for the purpose of
2 ratemaking, that single aggregate company pays
3 approximately 0.5 percent in policyholder dividends
4 each year?

5 A That's correct. On an aggregated
6 basis, the composite one company -- it's not
7 relevant as to whether it was one company, ten
8 companies or 100 companies that contributed to that
9 total. On an aggregated basis, it would represent
10 the same dollars.

11 Q When we determine some other expense
12 provision -- for example, commission and brokerage
13 for the single aggregate company, is it correct that
14 we aggregate the commission and brokerage expense of
15 all of the companies to determine that provision for
16 the single aggregate company?

17 A Yes. The process would be virtually
18 the same. It would be adding the commissions,
19 aggregating them across the full set of member
20 companies.

21 Q Do all of the companies which comprise
22 the single aggregate company -- do all of them pay
23 commission and brokerage or incur commission
24 expense?

25 A I would say commission and brokerage

1 expense is a very common expense for insurers to
2 pay. So I would suspect that most companies are
3 paying commission and brokerage. But I would also
4 very much expect that the rate of commission, the
5 percentage of premium that individual insurers pay
6 can be very different amounts. You could have --
7 some insurers will pay less than 10 percent. You
8 could have other insurers that will be paying maybe
9 something closer to 20 percent. So the range of
10 potential commission rates that insurers would pay
11 could vary by quite a fair amount.

12 Q And would the same be true of other
13 expense items such as, say, advertising?

14 A So advertising would typically fall
15 into like a general expense category, or potentially
16 another acquisition expense, probably one of those
17 two. And certainly advertising budgets which would
18 flow into general expense we know would vary greatly
19 from company to company there. Obviously, there are
20 some companies you see on a commercial during the
21 Super Bowl or something, and I'm sure they're
22 spending a ton more money than, you know, a smaller
23 insurance company that's not doing any type of TV
24 advertisement.

25 So there would likely be the

1 advertising component and -- which would lead to the
2 general expense ratio that could vary significantly
3 from company to company.

4 Q And yet it remains the case that when
5 we're aggregating the experience for the single
6 aggregate companies, it's appropriate to consider
7 all of those expenses as part of the expenses of the
8 single aggregate company?

9 A That's exactly correct. For the single
10 aggregate company, the aggregate composite one
11 company aggregating that experience is perfectly
12 appropriate.

13 MR. SPIVEY: Your Honor, at this time,
14 I am going to move into some questions
15 regarding the confidential document that
16 department counsel questioned this witness
17 about, the Verisk demand surge function
18 document.

19 MS. FUNDERBURK: And will the questions
20 be of such a nature that we need to clear
21 folks out again? We're going to talk about
22 some provisions -- some materials in that
23 document, so I think it's appropriate for
24 us -- that's the typical protocol here. All
25 right. Let me review who is on the Webex at

1 this point. Let's see.

2 All right. We have Mr. Schwartz on,
3 and I believe, Mr. Friedman, he has signed?

4 MR. FRIEDMAN: Yes, Mr. Schwartz has.

5 MS. FUNDERBURK: Has Allison Smart
6 signed the...

7 (Comments off microphone.)

8 MS. FUNDERBURK: Okay. Ms. Smart, I'm
9 going to remove you from the -- I think she
10 removed herself.

11 Mr. Montano, has he signed the
12 confidentiality agreement? Okay.

13 Ms. Benjamin and Ms. Smith have. Has
14 Ms. Embley signed the confidentiality
15 agreement? And I believe Ms. Hubbard has
16 signed, Mr. Friedman?

17 MR. FRIEDMAN: Yes, ma'am.

18 MS. FUNDERBURK: Has Stephanie Gunn
19 signed the confidentiality agreement?

20 MR. FRIEDMAN: Yes.

21 MS. FUNDERBURK: It looks like everyone
22 that continues to be on. You said
23 Mr. Montano has or -- he has. Okay. Then it
24 appears that everyone who is on the Webex has
25 signed.

1 And everyone in the room has as well?
2 And, again, for purposes of the record, I'm
3 going to put Mr. Spivey on the spot again
4 today to identify his folks -- or would you
5 rather have me just have everyone state their
6 name so I don't put you on the spot again?

7 MR. SPIVEY: Rather than ruining my
8 average, let's have them identify themselves.

9 MS. FUNDERBURK: We're not going to
10 mess with his batting average.

11 Starting with Mr. Spivey and
12 Mr. Beverly. Then we'll move towards the
13 back, if you could state your name for the
14 record, please.

15 MR. SPIVEY: Mickey Spivey.

16 MR. BEVERLY: Brian Beverly for the
17 Rate Bureau.

18 MS. LEEAPHORN: Lisa Leeaphorn for the
19 Rate Bureau.

20 MR. DAVIS: Cary Davis for the witness
21 and ISO.

22 MS. MAO: Minchong Mao on behalf of
23 Aon.

24 MR. ANDERSON: Paul Anderson from
25 Milliman.

1 MS. WILLIAMS: Rebecca Williams for the
2 Rate Bureau.

3 MR. FRIEDMAN: Terence Friedman with
4 counsel's office.

5 MR. HALFORD: Garrett Halford for the
6 department.

7 MS. FUNDERBURK: And I'll move that
8 Ms. Benjamin is here. She has signed the
9 agreement. Mr. Ericksen has signed the
10 confidentiality agreement. He is on the
11 witness stand. And Mr. Kohan, who is an
12 actuary assisting us, has signed. Ms. Wharry
13 has stepped out. She may be returning. She
14 has also signed the confidentiality
15 provisions.

16 As with yesterday, I'll remind those
17 present you have signed and agreed to abide
18 by the provisions of a protective order,
19 which makes certain matters, including what
20 we are about to go into confidential. A
21 violation of the confidentiality provisions
22 or a violation of that protective order may
23 result in sanctions, including, but not
24 limited to, a referral to Wake County
25 Superior Court for contempt.

1 At this time, I'm going to ask the
2 court reporter to mark the record at this
3 point going forward, that the provisions --
4 or that the testimony and statements from
5 this point forward should be marked as
6 confidential, and we'll notify the court
7 reporter when to notate that the transcript
8 and proceedings are again reopened and
9 proceed from there.

10 And, Mr. Spivey, as I mentioned to
11 Mr. Friedman, I do take very seriously that
12 this is a hearing for us to determine rates
13 that have a substantial impact on the people
14 of North Carolina. What can be open should
15 be open. So I ask you to be mindful of that.
16 And when you get to a point where we can
17 reopen the proceedings for an open record,
18 let me know that so we can so notify the
19 court reporter and go back on the public
20 record.

21 MR. SPIVEY: Certainly, Your Honor.

22 MS. FUNDERBURK: All right. Are you
23 ready to proceed?

24 MR. SPIVEY: Yes, Your Honor.

25 MS. FUNDERBURK: Please proceed.

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1 (Confidential portion ended on the
2 preceding page.)

3 MR. FRIEDMAN: Can we have a ten-minute
4 break, Your Honor?

5 MS. FUNDERBURK: Yeah. I think now is
6 a good time for a recess.

7 One thing I want to go ahead and
8 clarify before we go into recess, we have
9 concluded any testimony or questions
10 regarding this confidential, nonpublic issue,
11 correct?

12 Thank you.

13 I did note -- I believe it was Mr. Ford
14 that came in after I gave the warning
15 regarding the protective order. Those that
16 have signed the protective order are subject
17 to the protective order. If the protective
18 order is violated, sanctions are available,
19 including referral for contempt to Wake
20 County Superior Court. I'll ask the court
21 reporter to note that we have concluded the
22 confidential portion of testimony for today. I
23 did note -- I believe it was Mr. Ford that
24 came in after I gave the warning regarding
25 the protective order. Those that have signed

1 the protective order are subject to the
2 protective order. If the protective order is
3 violated, sanctions are available, including
4 referral for contempt to Wake County Superior
5 Court. I'll ask the court reporter to note
6 we have concluded the confidential portion of
7 testimony for today.

8 The transcript going forward for today
9 should be marked as open. At this time,
10 we'll take a ten-minute recess. It is 10:23.
11 I'll see counsel back at -- in ten minutes.
12 Thank you.

13 (A recess was taken from 10:23 a.m. to
14 10:35 a.m.)

15 MS. FUNDERBURK: We are back on the
16 record at 10:35 a.m.

17 MR. BEVERLY: Please the Court, Your
18 Honor, we just have a few housekeeping
19 matters. There are a number of exhibits that
20 we need to move into evidence.

21 MS. FUNDERBURK: Please proceed.

22 MR. BEVERLY: Those include RB-1, which
23 is the Rate Level Calculations and Regulation
24 Responses; RB-2, the Homeowners Policy
25 Program Manual; and RB-3, the Dwelling and

1 Homeowner Territories; in addition, RB-26,
2 which is the Notice of Hearing. RB-27 is the
3 Affidavit of Publication of the Homeowners'
4 filing in the Charlotte Observer. RB-28 is
5 the Affidavit of Publication in the Raleigh
6 News & Observer. RB-32 is the Affidavit of
7 Publication in the Charlotte Observer in
8 Compliance with the Prehearing Order
9 Instruction to Publish Notice of the Hearing.

10 MS. FUNDERBURK: And I believe that 26,
11 27, and 28 -- 26 was provided in a previous
12 document. I believe 27 and 28 were as well.

13 Has 38 been provided to the Court? I'm
14 sorry, not 38, thank you, ma'am.

15 32, has that one been provided?

16 MR. BEVERLY: No, Your Honor. I'm
17 about to approach to --

18 MS. FUNDERBURK: Okay. Thank you.

19 MR. BEVERLY: -- provide copies to the
20 Court and the court reporter and the clerk.

21 MS. FUNDERBURK: Thank you.

22 MR. BEVERLY: Yes, ma'am. And then,
23 finally, RB-33, Your Honor, is the Affidavit
24 of Publication in compliance with the
25 instruction to publish a notice of the

1 hearing in the Raleigh News and Observer.

2 So I would move those exhibits into
3 evidence, Your Honor.

4 MS. FUNDERBURK: Any objection,
5 Mr. Friedman?

6 MR. FRIEDMAN: No, ma'am.

7 MS. FUNDERBURK: Thank you.

8 Mr. Beverly, if you could approach with
9 31 -- I'm sorry -- with 32 and 33.

10 MR. BEVERLY: Yes, Your Honor.

11 MS. FUNDERBURK: And if you need some
12 extra blue stickers, we do have some up here.

13 MR. BEVERLY: I think I'm covered,
14 Your Honor.

15 MS. FUNDERBURK: Yes, please.

16 Thank you, Counsel. I'm admitting
17 RB-1, RB-2, RB-3, RB-26, RB-27, RB-28, RB-32,
18 and RB-33 into the record --

19 Does the Rate Bureau have any
20 additional witnesses?

21 MR. BEVERLY: Your Honor, I just want
22 to confirm that by my record now, Exhibits
23 RB-1 through RB-33 are now offered and
24 admitted into evidence?

25 MS. FUNDERBURK: Correct. Those are

1 the notations that I have in my notes, that
2 we have RB-1 through RB-33, inclusive of all,
3 admitted into evidence.

4 (RB Exhibit Numbers 1 through 3, 26
5 through 28, 32, and 33 were received into
6 evidence.)

7 MR. BEVERLY: Thank you, Your Honor.
8 With that, the Rate Bureau has no further
9 witnesses in its case in chief and the Rate
10 Bureau rests.

11 MS. FUNDERBURK: Thank you.

12 Mr. Friedman, are there any
13 housekeeping matters we need to address
14 before you call your first witness?

15 MR. FRIEDMAN: Other than once we're
16 through with our witnesses, we'll move to put
17 in all the documents we have. Counsel and I
18 have agreed on the accuracy of the discovery
19 responses and the data request responses that
20 we included. The rest of them are all
21 pleadings and are somewhat duplicative of
22 their exhibits and then -- but there
23 certainly are others I referred to already on
24 cross that I will be putting in through my
25 witnesses.

1 MS. FUNDERBURK: Thank you. Please
2 call your first witness.

3 MR. FRIEDMAN: Ms. Joanne Biliouris.

4 MS. FUNDERBURK: Please take the stand,
5 Ms. Biliouris.

6 I know you were previously on the
7 stand. I'm going to go ahead and swear you,
8 again.

9 JOANNE BILIOURIS,
10 having been first duly sworn, was examined and testified as
11 follows:

12 Thank you, Mr. Friedman, the witness
13 has been sworn in. Please proceed.

14 DIRECT EXAMINATION

15 BY MR. FRIEDMAN:

16 Q Good morning, Ms. Biliouris. It's
17 "Biliouris" or "Biliouris"?

18 A Well, it's -- I always tell people it's
19 like Delores with a "B."

20 So "Biliouris." It looks much worse in
21 writing.

22 Q Just got a lot of nice vowels.

23 All right. I'm going to -- we're first
24 going to be reading from --

25 MS. FUNDERBURK: If you could speak

1 more closely into your microphone, please.

2 MR. FRIEDMAN: Okay.

3 BY MR. FRIEDMAN:

4 Q We are going to be reading briefly from
5 the 2014 homeowners order, and I'm going to read
6 some sections into the record, and then ask you
7 questions about those sections. I'm not asking you
8 to interpret the sections or anything.

9 MR. BEVERLY: Objection, Your Honor.

10 If he's not going to put it in front of her,
11 I don't think --

12 MR. FRIEDMAN: We were going to pull it
13 up on the screen, and then I believe we were
14 going to get her the exhibit.

15 MS. WHARRY: Your Honor, may I approach
16 the witness with the exhibit book?

17 MS. FUNDERBURK: Can I get you to speak
18 into the microphone?

19 MS. WHARRY: May I approach the witness
20 with the witness book?

21 MS. FUNDERBURK: Yes, ma'am, please do
22 so.

23 MR. FRIEDMAN: We'll also be putting
24 that up on the screen.

25 MS. FUNDERBURK: I think I have that up

1 on everyone's computers now.

2 Yes, please, ma'am. Thank you.

3 BY MR. FRIEDMAN:

4 Q If you could turn to page 35. And I'm
5 just going to read into the record --

6 MS. FUNDERBURK: Just for purposes of
7 the record, what exhibit number is this?

8 MS. WHARRY: Book 5, Exhibit DOI 25.

9 MS. FUNDERBURK: Thank you.

10 (DOI Exhibit Number 25 was identified
11 as of this date.)

12 BY MR. FRIEDMAN:

13 Q Paragraph 59, if you could look at
14 that.

15 I'm going to read, "Commissioner held
16 that because the bureau would not provide newer
17 data" --

18 MR. BEVERLY: Your Honor, could

19 Mr. Friedman wait until we --

20 MR. FRIEDMAN: I'm sorry --

21 MR. BEVERLY: -- until it appears on
22 the screen, please?

23 BY MR. FRIEDMAN:

24 Q So reading the paragraph: "Thus, the
25 commissioner accepts the outdated data as minimally

1 sufficient to form the basis of the underlying rate
2 calculations. The commissioner notes for future
3 filings that the lack of availability of more recent
4 data is within the bureau's control, and the bureau
5 should consider stepping up the date that
6 statistical agents report data to ISO for filing
7 purposes."

8 On your first day during direct, do you
9 recall testifying about the data that's collected by
10 ISO and other statistical organizations in North
11 Carolina?

12 A Yes.

13 Q Okay. And do you recall testifying
14 that the rate bureau itself doesn't collect that
15 statistical data?

16 A Yes.

17 Q And do you recall testifying that the
18 Rate Bureau does not appoint statistical agents?

19 A Yes.

20 Q And I'll -- just because it's been used
21 in a variety of ways in our statute, I'll be
22 referring to them as "statistical orgs," although
23 I've obviously heard people refer to them as
24 "statistical agents."

25 And did the Rate Bureau make its own

1 decision to retain ISO to compile the statistical
2 data for the filing?

3 A Yes.

4 Q In keeping with the 2014 commissioner's
5 order asking the bureau to consider stepping up the
6 date that statistical agents report data to ISO,
7 since 2014, are you aware of any discussions the
8 Rate Bureau has had with ISO about what can be done
9 to expedite compiling the statistical data that's --
10 such as that used in this filing?

11 A I haven't been involved directly with
12 any conversations with ISO about that. As
13 Mr. Ericksen testified earlier this week, the other
14 statistical agents provide their data to ISO, for
15 lack of a better characterization, as a courtesy. I
16 mean, there's no compensation. There's no
17 obligation on their part to do so. So, no, we have
18 not had any discussions of that nature.

19 Q Okay. Would -- I understand you
20 haven't had any discussions, then, with ISO.

21 Had there been any internal discussions
22 at the Rate Bureau about how to address that concern
23 of the commissioner in 2014?

24 A We've certainly talked about making
25 sure that as soon as the data is reported by the

1 various stat agents, that it is aggregated right
2 away, that it -- the data validation and -- is --
3 happens right away.

4 You know, Mr. Ericksen talked yesterday
5 that certainly when we have a filing that we're
6 trying to begin work on, it sometimes goes a little
7 faster. But we've asked them to ensure that that
8 data is reviewed, validated -- their term is
9 "scrubbed," if you will -- as soon as it becomes
10 available, even if we're not working on a filing
11 exactly at that time.

12 So in the event we do do a filing or a
13 rate review in the future, that data is already
14 there and available for use.

15 Q So I'm a little confused. Were those
16 internal communications or communications with ISO?

17 A Communications with ISO.

18 Q And has the bureau ever considered
19 setting a deadline by which it needs all of the data
20 and the consideration of the data from ISO?

21 A No, we have not necessarily put a time
22 limit on it because that can sometimes lead to
23 elimination of data. I mean, if we say we have to
24 have it by December 1st and all the data is not
25 there, available, validated, we could be losing a

1 large piece of information that could be used in the
2 filing. So we do just ask them to make their best
3 efforts in an expedient manner.

4 Q Are you aware that around 10 percent of
5 the data for losses, exposures, and expenses is
6 already missing from this filing?

7 MR. BEVERLY: Objection. Is counsel
8 going to cite a source for that?

9 MR. FRIEDMAN: I'm asking her if she's
10 aware.

11 MR. BEVERLY: Then it assumes facts not
12 in evidence. Objection.

13 MS. FUNDERBURK: I'm sorry,
14 Mr. Beverly, I couldn't hear you.

15 MR. BEVERLY: It assumes facts not in
16 evidence, Your Honor, if he's not going to
17 show the source. Objection.

18 BY MR. FRIEDMAN:

19 Q Do you know how -- what percentage of
20 data from North Carolina member companies, whether
21 they report to other ISO, to other statistical
22 organizations besides ISO, or ISO, is missing from
23 the filing?

24 A I don't know the exact percentage, but
25 I do know that we outline within the filing any data

1 that wasn't able to be used.

2 Q Do you know how the current statistical
3 plans were developed for statistical organizations?

4 A No.

5 Q No knowledge of that process at all?

6 A My understanding based on what I've
7 heard in testimony here is that the statistical
8 agent submits a plan to the commissioner with the
9 data that is required for them to do ratemaking, and
10 that statistical plan is then approved by the
11 commissioner for use in the state.

12 Q Are you aware that the statistical plan
13 has dates that by which the statistical
14 organizations agree to get the data to the
15 commissioner?

16 A No, I wasn't aware of that.

17 Q Okay. Are you aware of whether
18 statistical organizations can amend their
19 statistical charts in order to add deadlines -- or
20 for any purpose?

21 A I learned that during the testimony
22 this week, yes.

23 Q Okay. So was it possible that
24 statistical organizations, ISO or the others that
25 give data to ISO, could amend their statistical

1 plans in order to say -- promise the commissioner
2 their data will have a turnaround time of whatever
3 period?

4 MR. BEVERLY: Objection as to what's
5 possible. Calls for speculation. She's not
6 an expert witness.

7 MR. FRIEDMAN: Your Honor, I think it's
8 a very simple question, and she's said that
9 she is aware they can amend it. All I'm
10 asking is, is it possible, then, that they
11 could amend it but to include a date?

12 MR. BEVERLY: Objection. Calls for
13 speculation.

14 MS. FUNDERBURK: You believe it's
15 speculation as to whether she's aware of
16 whether something could be amended?

17 MR. BEVERLY: Your Honor, she testified
18 that her understanding from testimony at this
19 hearing is that the stat agents could
20 possibly amend that data as to what is
21 possible. She doesn't work for a stat agent,
22 so I would argue that it would be a
23 speculation for her to opine on whether or
24 not that is, in fact, a possibility for them.

25 MS. FUNDERBURK: I'm going to ask

1 Mr. Friedman, restate your question in a
2 noncompound manner.

3 Ms. Biliouris -- and I appreciate the
4 guidance on the pronunciation of your name.
5 I'm trying to be sensitive with a last name
6 like Funderburk.

7 I'll remind you that you can testify as
8 to your knowledge. And if you have no
9 knowledge, you can so state that you do not
10 have knowledge.

11 Mr. Friedman, please restate your
12 question, noncompound, direct way to the
13 witness.

14 BY MR. FRIEDMAN:

15 Q You testified just a moment ago that
16 you have learned that statistical organizations can
17 amend their statistical plans.

18 A Yes.

19 Q Okay. Are you aware of whether one of
20 the ways they could amend them would be to add a
21 date by which their reports would be due to the
22 commissioner?

23 A I can't say I'm -- what I heard
24 yesterday is they can amend their plans. I don't
25 know what pieces, parts, and what, in theory, is

1 included in those plans, so I couldn't answer that
2 question.

3 Q So after the 2014 commissioner's order,
4 you just testified that there was some conversation
5 with ISO about the timing of their provision -- or
6 their gathering and then the provisioning of the
7 information to the bureau; is that correct?

8 A There were discussions. I can't speak
9 whether they were the direct result of this order or
10 not. The bureau always strives to get information
11 as holistically and as accurately and as quickly as
12 possible.

13 Q Was that --

14 A Those are ongoing discussions pretty
15 much with anyone that we receive data from.

16 Q Okay. And those -- so you say
17 "ongoing."

18 Did those discussions also occur with
19 regard to the 2024 filing?

20 A Yes.

21 Q Does the NCRB have any other contracts
22 with the other statistical organizations that report
23 data to ISO?

24 A No.

25 Q Okay. Could it enter into such

1 contracts?

2 A I haven't explored that, I don't know.

3 Q After the 2014 commissioner's order,
4 did the NCRB contact any of the other statistical
5 organizations besides ISO, the ones that feed data
6 to ISO to ask them whether they could speed up their
7 processing of their data?

8 A I wasn't employed by the bureau in
9 2014, so I can't speak to any conversations that had
10 happened at that time.

11 Q How long have you been with the bureau?

12 A Since May of 2015.

13 Q Okay. So since May of 2015, are you
14 aware of any conversations between NCRB and the
15 other non-ISO statistical organizations about the
16 speed with which they receive and process data?

17 A Not that I was involved in.

18 Q Now, would you agree that much of the
19 data that North Carolina homeowner carriers, those
20 that are members of the bureau, much of the data
21 that they report to statistical organizations could
22 also be requested by the bureau of its members?

23 A There has been a lot of discussion
24 about the fact that the Rate Bureau is not a
25 statistical agent and, therefore, may be limited in

1 what type of data we could require. So I -- the
2 question is could the bureau ask for that data from
3 all their members? Sure, we could ask for it. But
4 I don't think we have any authority to require them
5 to report it at this point. And the bureau also is
6 not in a position to receive and aggregate all that
7 information.

8 Q Did the bureau receive and aggregate
9 all that information from its members by sending it
10 on to ISO?

11 A Potentially, yes, but I don't think
12 we've explored that.

13 Q You mentioned discussions about what
14 the Rate Bureau's actual authority over the members
15 was.

16 A I didn't say actual authority over the
17 members. It's whether the bureau is -- we've talked
18 about what a statistical agent's obligation -- I
19 mean, what it means to be a statistical agent,
20 getting licensed as a statistical agent and that we
21 are not one. So that -- we're not in the business
22 of collecting statistical data from our members at
23 this point. There are appointed agents that that is
24 their role in the state.

25 Q The data calls that the bureau issues

1 to its members, for the specific purposes of
2 filings, whichever type, how often do those go out a
3 year?

4 A We have what's called an IDC data call,
5 Industry Data Collection is the name of the system,
6 and we ask for their financial data, their annual
7 statements that are also -- my understanding --
8 submitted to the department. We get a copy of the
9 same.

10 And then there's another IEE exhibit
11 with the annual statement that's the insurance
12 expense data. We ask that that be provided to us as
13 well. And then we ask some other questions,
14 depending on how the annual statement delineates
15 data or doesn't. We may ask some clarifying
16 questions.

17 Q Does -- so --

18 A And that's once a year. We do it
19 annually when those annual statements are reported
20 to the department.

21 Q And the Rate Bureau drafts that
22 request, data request, or that data call?

23 A It's actually in a system. We don't
24 necessarily draft it. We send a notification out to
25 all of our member companies, saying, you know, it's

1 time -- it's that time of year. You need to submit
2 your data through our IDC system.

3 Q Okay. But somebody with the Rate
4 Bureau originally designed that form that is on the
5 Rate Bureau system?

6 A Yes. And it's amended periodically
7 when new information becomes available or there are
8 adjustments to the annual statements that we need to
9 make sure our system addresses.

10 Q For a filing, has there ever been an
11 instance where, in addition to that annual data
12 call, there's been a special data call?

13 A For homeowners, not that I'm aware of.

14 Q Okay. In other lines?

15 A We have requested information from
16 mobile home carriers. It's a much smaller subset
17 with a lot of the varying information that we felt
18 would be helpful for us in doing a rate review. So
19 we have done that for our mobile home programs.

20 Q So mobile home carriers receive both an
21 annual data call, but may receive -- or have
22 received at least an additional special data call?

23 A Mobile home carriers, yes.

24 Q Is there any reason why the bureau
25 couldn't, if it needed to, issue a special data call

1 to homeowners carriers?

2 A We could.

3 Q So do you recall testifying that --
4 well, as you know, the filing was submitted in
5 January 2024.

6 A Correct.

7 Q Do you recall testifying that there
8 were four meetings at the property rating
9 subcommittee between May and November of 2023?

10 A I know there were four or five total
11 meetings. Some were the property committee, some
12 the property rating. And I believe one was the
13 governing committee.

14 Q And do you recall when the last of
15 those four or five took place?

16 A I believe the final step is to present
17 the results of the rate review to the governing
18 committee with -- and they made the final decision
19 whether that turns into a filing. I believe that
20 was December 5th.

21 Q And I believe -- is it your
22 recollection that the first meeting was in May 2023?

23 A Yes. The first committee meeting was
24 May -- I believe May 25th.

25 Q Okay. So that's approximately -- would

1 you agree it's approximately eight months between
2 the first meeting of the property rating
3 subcommittee and the delivery of the property
4 filing?

5 A Yeah, that's roughly correct.

6 Q Has the NCRB ever considered what it
7 could do to compress that eight-month time frame so
8 that the filings could be made much closer -- or any
9 closer in time to the data?

10 A I would say the bureau has made
11 improvements in that process since the time that
12 I've been there. As I testified previously, I
13 believe we set up a -- kind of a project plan, if
14 you will.

15 You know, when the exposure data's
16 available, we immediately set up a meeting either to
17 have that data reviewed by the committee so they
18 could make selections. That exposure data is then
19 provided to Aon for the models. That model output
20 then goes -- you know what I mean? There's --
21 everything's dependent on something else.

22 And there are certain steps that can't
23 happen until the previous step has been completed.
24 So once the exposure data goes to the modelers, that
25 takes some time for them to run the models, validate

1 all the output, blend those models, get the results
2 in. You know, then once those are kind of reviewed
3 and approved by the committee, then it goes into,
4 well, if this is -- this is the model output that we
5 would use for the reinsurance, the net cost of
6 reinsurance. Then it's analyzed at that point.

7 And while all this is going on, our
8 committees are, you know, selecting trends for
9 various components, looking at different selections
10 for inputs in there. So it -- we always look for
11 ways to make it as efficient as possible.

12 Q So are there -- would there be ways for
13 the bureau to make that eight-month period shorter?

14 A Yes. Probably. But it would be
15 challenging. A lot of our committee members are
16 companies that -- you know, they represent companies
17 in which this is not their primary function, to
18 serve on this committee. Certainly, scheduling
19 meetings with large groups outside your organization
20 is challenging as well.

21 I mean, I'm sure we could do some
22 things to maybe take it down a few weeks or maybe
23 even a month, but I would -- I'd be afraid we'd
24 sacrifice quality and 100 percent input.

25 Q I'm going to turn to the 2014 order,

1 again, on pages 38 through 39. Looking particularly
2 at paragraph 70.

3 MR. BEVERLY: Seven-zero?

4 MR. FRIEDMAN: Seven-zero.

5 MR. BEVERLY: Thank you.

6 BY MR. FRIEDMAN:

7 Q I'm going to start at the bottom of 70.

8 And it looks like it will continue --

9 Shannon, does it continue?

10 MS. FUNDERBURK: Please be sure you're
11 speaking into the microphone.

12 MR. FRIEDMAN: Yes.

13 BY MR. FRIEDMAN:

14 Q It will continue from page 38 to 39.

15 So the sentence I'm reading is: Given
16 Curry's testimony and other testimony on this
17 matter, the commissioner's inclined to agree with
18 Schwartz that the filing should be disapproved in
19 part.

20 However, rather than taking such a
21 radical step with this filing by approving the rate
22 filing wholly, the commissioner instead will
23 consider the inclusion of CTR and Beach Plan data in
24 this voluntary market rate filing as negatively
25 impacting the bureau's overall credibility.

1 The commissioner urges the bureau to
2 take whatever steps necessary to split out that data
3 in order to avoid disapproval of future filings.

4 In the current filing, does the Rate
5 Bureau split out the voluntary market historical
6 data from the CTR historical data?

7 A No.

8 Q In the current filing, does the Rate
9 Bureau split out the combined CTR and voluntary
10 market data from the Beach Plan data?

11 A Not that I'm aware of, no.

12 Q Do you know whether the bureau has made
13 any efforts since 2014 to do so in filings for
14 homeowners?

15 A Not that I'm aware of, no.

16 Q I'm going to turn actually to the first
17 page in Book 1 of RB-1. Literally, the first
18 sentence. Tell me if you're there.

19 A Yeah. The cover letter?

20 Q Yes, ma'am.

21 A Yeah.

22 Q I'm going to read it into the record:
23 Enclosed herewith for filing on behalf of all member
24 companies and the North Carolina Rate Bureau are
25 revised premium rates for homeowners insurance

1 subject to the jurisdiction of the Rate Bureau.

2 Is the Beach Plan subject to the
3 jurisdiction of the Rate Bureau?

4 A As to rates, I believe they are
5 required to use the Rate Bureau rates for their
6 policies.

7 Q Is that being "subject to the
8 jurisdiction of the Rate Bureau"?

9 If that's a legal question that you're
10 unable to answer, I certainly understand.

11 A I think so. They're within the
12 jurisdiction of the Rate Bureau as it pertains to
13 utilizing our rates, published rates.

14 Q The start of the sentence, it says:
15 "Enclosed herewith for filing on behalf of all
16 member companies of the North Carolina Rate Bureau."

17 Is the Beach Plan a member company of
18 the North Carolina Rate Bureau?

19 A No.

20 Q Okay. And yet, the filing includes
21 exposures and losses for the Beach Plan?

22 A Yes.

23 MR. BEVERLY: For the record, Your
24 Honor, the sentence reads: "Revised premium
25 rates for homeowners insurance subject to the

1 jurisdiction of the Rate Bureau."

2 Would argue that the sentence "rates"
3 is being by modified by "jurisdiction of the
4 Rate Bureau," not anything else.

5 MS. FUNDERBURK: For clarification in
6 the record, was it the Rate Bureau's intent
7 that the cover letter be included as part of
8 Rate Bureau-1?

9 MR. BEVERLY: It's in the record, Your
10 Honor, yes.

11 MS. FUNDERBURK: It's in the record,
12 but just for clarity of labeling, it is the
13 first page of Rate Bureau Exhibit 1, correct?

14 MR. BEVERLY: Correct, Your Honor.

15 MS. FUNDERBURK: Okay. Thank you.

16 BY MR. FRIEDMAN:

17 Q Does the bureau provide the Beach
18 Plan's expenses associated with its losses and
19 exposures?

20 A Do we provide it?

21 Q In the filing.

22 A Not that I'm aware of, no.

23 Q Are you aware that the Beach Plan makes
24 available publicly at least some information about
25 the average operating expenses per policy?

1 A Yes.

2 Q Okay.

3 A However, the expenses of the Beach Plan
4 are not, I guess, comparable, if you will, to the
5 expenses of a member company. They are a different
6 expense structure. When they have a wind-only
7 policy and the ex-wind policy is written by a member
8 company, if you will, if there's a claim on that
9 wind-only policy that also involves the member
10 company who writes the full policy, that claim is
11 handled by the member company.

12 So there are expenses that aren't an
13 apples-to-apples comparison with the voluntary
14 market. So therefore, I think, Mr. Ericksen
15 explained this week in his testimony how an expense
16 ratio is used on those exposures to level-set, if
17 you will, that expense information.

18 Q Is that expense ratio -- is there a
19 number assigned to that and added to the filing?

20 A That's kind of outside my expertise.
21 I'm not sure. I'm not sure exactly where it's
22 placed and how it's put in. But I do know that we
23 account for expenses in a different manner.

24 Q Okay. But you don't know whether that
25 accounting is actually included in the data the

1 filing is based on?

2 A I would assume it is, but I wouldn't
3 point you to an actual exhibit, because I just don't
4 know the exhibits by heart.

5 Q When a member company uses its own
6 adjuster to -- as an example, to investigate a claim
7 on a Beach Plan wind policy, does the Beach Plan
8 reimburse the member companies for that time?

9 A I don't know.

10 Q Has the bureau ever discussed with the
11 Beach Plan having it provide more -- or provide the
12 NCRB with its detailed expense data?

13 A I don't believe that we've had that
14 conversation, no.

15 Q Does the bureau regularly communicate
16 with the Beach Plan?

17 A I wouldn't say there's a standing
18 meeting. Like with other business partners, we
19 certainly talk about issues that may come up or if
20 they have any questions about the programs that
21 they're utilizing. I mean, we'll talk to them on a
22 regular basis in that type of manner. When we make
23 a filing that we think might impact them, program
24 changes, we certainly share that with them, you
25 know, proactively, things of that nature.

1 Q Has the bureau ever asked the Beach
2 Plan to share data that it hadn't stuck on its
3 website or printed out and made public?

4 MR. BEVERLY: Can you be more specific
5 about what data you're referring to, please?

6 BY MR. FRIEDMAN:

7 Q So I'm aware that the Beach Plan puts a
8 lot of data on its website, and I guess I'm thinking
9 of that -- I don't know whether it prints off hard
10 copies of stuff any longer. But I'm thinking of
11 that, in my mind, as publicly available data.

12 A Sure. I mean, we've reached out to
13 them in the past to say, "Oh, we noticed you" -- I
14 don't know -- "put your financial statement out
15 here." I mean, things of that nature, and we may
16 ask some questions about it if something looks
17 unusual or something like that.

18 Q Have you ever asked them to give you
19 more information above and beyond what you saw there
20 publicly?

21 A There have been instances where we
22 would have asked for information that may help
23 inform some trends we're seeing, and I can't say
24 unilaterally that they have said yes to those
25 requests. There are times they say no.

1 Q What sort of things have they been
2 willing to share with you?

3 A I mean, as you said, things that are
4 publicly available. I mean, they're more than
5 willing to maybe have a discussion about certain
6 components of what they put on their website or, you
7 know, maybe give a little detail or commentary
8 behind them.

9 Q Have they ever given you additional
10 documentation than that -- than what was on their
11 website?

12 A I think in some circumstances they
13 have.

14 Q Do you recall testifying that the
15 Commissioner of Insurance sits on the Beach Plan
16 board?

17 MS. FUNDERBURK: Please speak into the
18 microphone.

19 MR. FRIEDMAN: Yes.

20 BY MR. FRIEDMAN:

21 Q Do you recall testifying that the
22 Commissioner of Insurance sits on the Beach Plan
23 board?

24 A I stated that I believed that he had a
25 seat on their board, yes.

1 Q Okay. Do you know whether he is, in
2 fact, a member or an ex officio member?

3 A I don't know. I would assume it's an
4 ex officio member.

5 Q And does an ex officio member have the
6 ability to vote?

7 A I can't speak to the Beach Plan
8 structure. In the organizations that I work with,
9 an ex officio member does not have voting
10 capability.

11 Q And that would include the Commissioner
12 of Insurance, who is an ex officio member, I
13 believe, of the bureau IT?

14 A No. He's not an ex officio member of
15 the bureau's committees. He is on the reinsurance
16 facility, not on the Rate Bureau.

17 Q Oh, so he's not on the governing
18 committee?

19 A No.

20 Q My mistake.

21 So I'm going to turn to pages 57 and 58
22 from the commissioner's 2014 order?

23 MS. FUNDERBURK: Please speak into the
24 microphone.

25 MR. FRIEDMAN: Yes. Pages 57 and 58 of

1 the commissioner's 2014 order, and
2 specifically paragraph 145.

3 THE WITNESS: And that's -- I've had to
4 switch books. Where --

5 MR. FRIEDMAN: That is in book 5.

6 BY MR. FRIEDMAN:

7 Q Are you there?

8 A Yes.

9 Q I'll read it into the record: "The
10 commissioner, therefore, finds that without more
11 documentation supporting the subcommittee's
12 judgmental selection to use 50 percent of the
13 dollars per policy of the owners forms as a G&OA
14 expense loading for tenants and condominiums, the
15 bureau's methodology is inappropriate and results in
16 an overstatement of the tenants and condominiums
17 indicated rates. The commissioner further finds
18 that O'Neil's methodology, which was previously used
19 by the bureau, results in more reasonable expense
20 values that are more befitting the much smaller
21 market size of the tenants and condominiums property
22 form."

23 Is it your understanding at least at
24 some point in the 1990s the bureau asked its members
25 to split out their reported expense loading for

1 their owners forms separate from their tenants and
2 condominium forms?

3 A I wasn't employed with the bureau in
4 the 1990s, so, no, I can't say I'm familiar with
5 that.

6 Q And do you know of any attempt by the
7 bureau since the 2014 order to have its members
8 split out the data among homeowners, tenants, and
9 condominium forms?

10 A No.

11 Q So to your understanding, is that
12 50 percent of the dollars per policy for owners
13 forms as a G&OA expense loading for tenants and
14 condominiums, is that still all that's included in
15 the current filing?

16 A Based on the testimony that I heard
17 earlier this week, yes.

18 Q Okay. And what's your understanding of
19 how they arrived at 50 percent?

20 A My understanding is what Mr. Ericksen
21 outlined; that it is a smaller group, so that the
22 expenses should be discounted and that the committee
23 had input based on what that should be. And they
24 agreed on 50 percent.

25 Q Do you recall whether there was any

1 data about the input that the committee had when
2 setting the 50 percent ratio?

3 A No, I don't have any knowledge of that.

4 Q I'm going to move now to the 2014 order
5 at page 148, paragraph 489.

6 A 148 only has paragraph 435, 436, and
7 437.

8 Q My mistake. It's page 168, not 48.
9 Paragraph 489.

10 MR. BEVERLY: For the record, are we on
11 page 167?

12 THE WITNESS: Yes. Or if we're looking
13 at 489, it's on page 167.

14 MR. FRIEDMAN: It is, I'm sorry for
15 that. Okay. There we go.

16 BY MR. FRIEDMAN:

17 Q Are you there, ma'am?

18 A Yes.

19 Q "The commissioner also notes herein
20 that NCGS 58-45-56(c), which provides for the
21 consideration of prospective exposure to
22 nonrecoupable assessments and ratemaking is a Beach
23 Plan only -- the Beach Plan statute only. There is
24 no corresponding FAIR Plan statute allowing for
25 consideration of nonrecoupable assessments. Yet,

1 Appel has clearly included FAIR Plan data in its
2 calculation of the compensation for assessment risk.

3 "The FAIR Plan contribution to the
4 4.4 percent compensation for assessment risk is
5 approximately 23 percent. Unfortunately, there was
6 not testimony on this issue during the proceedings,
7 thus the commissioner is left to ponder whether this
8 was merely an oversight on the bureau's part or an
9 intentional miscalculation that resulted in a higher
10 factor."

11 Had -- since 2014, has the bureau
12 continued to include FAIR Plan assessment data in
13 its CAR calculations for homeowners' filings?

14 A I don't know.

15 Q You didn't hear any of the testimony by
16 Mr. Anderson or Mr. Ericksen --

17 A I heard how --

18 MR. BEVERLY: Objection. That wasn't
19 counsel's question. The question was whether
20 she's aware and she answered it.

21 BY MR. FRIEDMAN:

22 Q Okay. Well, then I'll ask, did you
23 hear Mr. Anderson or Mr. Ericksen testify about the
24 inclusion of FAIR Plan data in the filing?

25 A Yeah, but I can't say I totally

1 understood all of it. Yeah. But was FAIR Plan data
2 included? I think so.

3 Q And was that merely an oversight on the
4 bureau's part, or was it intentionally included to
5 result in a higher factor for the CAR?

6 A From my understanding, the CAR is there
7 to recognize that companies' capital is essentially
8 set aside for potential assessments. And who those
9 assessments come from, whether the Beach Plan or the
10 FAIR Plan, I don't think there's any delineation
11 between those. It's the risk of assessment, which
12 is compensation for assessment risk.

13 Are they at risk for assessments from
14 the FAIR Plan? Yes.

15 Are they at risk for assessments for
16 the Beach Plan? Yes.

17 So that's -- you know, a component
18 within the filing.

19 Q In the time that you've been at the
20 bureau -- I think you said it was 2015 -- has there
21 ever been any discussion about the commissioner's
22 concern in the 2014 order about the inclusion of
23 FAIR Plan data in the calculation of the CAR?

24 A Not that I can recall.

25 Q All right. Also on the 2014 order,

1 page 136, paragraph 392. I'm going to read --

2 MS. FUNDERBURK: Please speak into the
3 microphone.

4 MR. FRIEDMAN: Yes.

5 BY MR. FRIEDMAN:

6 Q The first two sentences: Appel
7 testified that his hypothetical reinsurance program
8 is typical of property insurers in North Carolina.
9 However, Appel failed to provide any documentation
10 regarding actual reinsurance agreements or
11 comparisons to actual reinsurance agreements.

12 To your knowledge, is there any
13 document of actual reinsurance agreements in this
14 filing?

15 A The bureau, I think we testified back
16 in 20 -- I can't remember -- 2016, 2017, some time
17 frame. We employed Aon for the net cost of
18 reinsurance component of the filing specifically
19 because of their knowledge -- their expertise and
20 their vast access to that exact information:
21 Reinsurance agreements and documents to help
22 validate the net cost of reinsurance provision
23 within our filing.

24 Q Were you here for Ms. Mao's testimony
25 about what actual reinsurance agreements were

1 considered during Aon's calculation of the net cost
2 of reinsurance?

3 A Yes.

4 Q Okay. Do you recall her testifying
5 that there weren't any actual reinsurance agreements
6 provided with the filing?

7 A Yes, I believe she stated that was
8 proprietary, and she wasn't able to provide customer
9 data.

10 Q So was it your understanding that there
11 have been no actual reinsurance agreements provided
12 with this filing?

13 A Physical copies of agreements? No,
14 they weren't.

15 Q And is it also accurate that there were
16 no comparisons, explicit comparisons of the model
17 net cost of reinsurance to actual reinsurance
18 agreements?

19 MR. BEVERLY: Objection. Can you be
20 more specific?

21 A Yeah.

22 BY MR. FRIEDMAN:

23 Q Sure. I was breaking up the sentence
24 into two parts in probably a misbegotten attempt to
25 make my question simpler.

1 But the part I read from the order had
2 said that he had -- Dr. Appel hadn't provided any
3 documentation regarding actual reinsurance
4 agreements or comparisons to actual reinsurance
5 agreements. And what I was asking about was that
6 second phrase, "comparisons to actual reinsurance
7 agreements."

8 So I was asking whether there was any
9 document in the filing comparing the modeled net
10 costs to actual reinsurance agreements, whether or
11 not the reinsurance agreements were there themselves
12 or not.

13 A I'm not aware of -- I don't know.

14 Q The data call that the bureau sends out
15 to its members for their data, does it ask for
16 expense experience with regard to some elements of
17 the rate? Does it ask for those carriers' expense
18 data for their G&OA expenses?

19 A Possibly. I'm going to be honest with
20 you, I don't know all the expense data. I know that
21 there is an IEE statement that goes along with the
22 annual statement that itemizes a lot of the expenses
23 of the insurance company, but I could not recite to
24 you all of them that are on there.

25 Q Okay. Do you know whether it includes

1 any request for information about the actual
2 premiums that the member companies are paying for
3 reinsurance?

4 A Not that I'm aware of.

5 Q Okay. Is that something that the
6 bureau could include in its data calls?

7 A I think the bureau could include that
8 data, however, as Mr. Ericksen, Ms. Mao, and
9 Mr. Anderson outlined, if you just ask "How much do
10 you pay for reinsurance?" and somebody gives you a
11 number, without a lot of follow-up questions and
12 dissections of that number, it would be hard to use
13 it -- or have it be in a usable format.

14 Every company has, you know, a
15 different territory. They may write in multiple
16 states. They may write, you know, eight lines of
17 business instead of just one line of business. They
18 may have reinsurance for, you know, earthquake,
19 hurricane. There's just different attachment
20 points, different exhaustion points.

21 There's so many variables that each
22 insurance company has within their reinsurance
23 program that to just ask "How much premium did you
24 pay to reinsurance?" not knowing -- you know, and
25 that's how we're trying to get to the net cost of

1 reinsurance, because certainly if they pay premiums
2 and then some of those claims are actually paid by
3 the reinsurer versus the company, those claims -- I
4 mean, it's -- I'm not even anywhere near an expert
5 on reinsurance, and I've learned that it's one of
6 the most complex types of insurance out there, and
7 it can't just be looked at singularly as a premium.

8 Q Do you recall the testimony from
9 Mr. Anderson and Mr. Ericksen that in other states
10 where there are homeowners carriers that make
11 filings just for themselves -- those may be
12 national carriers with multiple operations or
13 multiple lines in that state, and yet nonetheless
14 they assign a number to the premium cost for their
15 reinsurance?

16 A Yes, I did hear that testimony. But
17 they apply for their one company based on their one
18 program and all the variables within their program,
19 so that's not something you can just extend out to
20 110 companies.

21 That's what I heard them say. I mean,
22 I heard them say, yes, there are some companies that
23 can whittle it down, when needed, for a filing. But
24 to do that, across 110 companies, and apply that to
25 the hypothetical one, I heard all three of them say

1 it would be extremely burdensome, and I'm not sure
2 every company out there would provide us that
3 information.

4 I think they would claim that it's
5 proprietary, and we'd have difficulty with -- you
6 know, as we talked about it several times here.
7 More data is better. And if there's a subset that
8 don't provide the information, we are going to be
9 basing it on not a complete picture.

10 Q So despite the commissioner's concern
11 in 2014 that there was no evidence of actual
12 reinsurance agreements or premiums, the bureau has
13 never even tried to ask for that data from its
14 members?

15 A We certainly had discussions at a
16 committee level about would it be appropriate to do
17 that, how would we do that, who would be willing to
18 give their information. And our committees felt
19 like the route we had taken with Aon in using the
20 most predominant reinsurance broker in the world and
21 utilizing their expertise, their experience, and
22 their access to actual reinsurance agreements was a
23 more prudent, actuarially sound approach.

24 Q So y'all never even tried it?

25 MR. BEVERLY: Objection.

1 A We --

2 MR. BEVERLY: Asked and answered.

3 MS. FUNDERBURK: Sustained.

4 BY MR. FRIEDMAN:

5 Q So now I'm going --

6 MS. FUNDERBURK: Please speak into the
7 microphone.

8 BY MR. FRIEDMAN:

9 Q We'll be back in RB-1 in Book 1, and in
10 particular, at pages E-508 through E-509.

11 A Could you repeat the "E" numbers,
12 again?

13 Q Sorry.

14 A Could you repeat the "E" numbers,
15 again?

16 Q Yes. E-508 through E-509.

17 And if you want to take a second to
18 review those pages, please do.

19 A Okay.

20 Q Looking at the top of the page 509.

21 A Okay.

22 Q Under the paragraph 2, the last
23 paragraph, I'll read it into the record: Following
24 discussion, a motion was made, seconded, and passed
25 to recommend to the property committee that the

1 overall indicated rate increase of 42.6 percent be
2 filed allowing for minor adjustments of the
3 indication, if necessary, as the calculations are
4 finalized.

5 Is -- would that have included
6 specifically approving of the 1 percent contingency
7 provision?

8 A Yes. It would have meant all the
9 components that comprised that indication would have
10 been approved.

11 Q Okay. And were you present at this
12 meeting?

13 A Yes.

14 Q And that was the final vote that the
15 subcommittee made on that 42.6?

16 A Correct.

17 Q Okay. During that meeting, was any
18 litigation about -- that could affect homeowners
19 carriers discussed?

20 MR. BEVERLY: Objection. The question,
21 Your Honor, would well elicit communications
22 with counsel. I would ask counsel to be more
23 precise, if possible.

24 MR. FRIEDMAN: Sure.

25 BY MR. FRIEDMAN:

1 Q Was -- I will say this is testimony
2 that the bureau has already elicited from, I
3 believe, Mr. Anderson on redirect. But I don't know
4 whether his testimony was based on communications
5 from counsel or not. But was there any discussion
6 before that vote of the Ha vs. Nationwide case?

7 A Before that vote?

8 Q Yes.

9 A In that specific meeting? No, I don't
10 believe so.

11 Q Okay.

12 A It's listed here that the Report of
13 Counsel was number 4. So it would have -- they
14 would have gotten an update on that case after.

15 Q And then was there any discussion
16 before that vote about a series of lawsuits filed in
17 the Charlotte area by a roofing company that was
18 contesting the assignment-of-benefits provision in
19 the homeowners property forms?

20 A The minutes don't indicate that that
21 was discussed at this meeting; however, there's a
22 usual counsel update at every meeting. So like Ha
23 vs. Nationwide that's been going on for a long time,
24 and the committee would have been aware that that
25 court case was ongoing.

1 I'd have to look back at the previous
2 minutes to see if those assignment-of-benefit cases
3 were discussed in previous meetings. If not -- it
4 doesn't look like an update was provided in this
5 meeting, but they could have been aware of it.

6 Q So that's the question, "they could
7 have been aware," but you don't know whether they
8 were?

9 A Correct.

10 MR. FRIEDMAN: This is my last
11 question, but I need to quickly confer with
12 my colleague, if I could, about --

13 MS. FUNDERBURK: Sure. You can take a
14 moment.

15 (Pause.)

16 BY MR. FRIEDMAN:

17 Q Could you look at Exhibits 32 through
18 35.

19 MR. BEVERLY: Where are you pointing?

20 MR. FRIEDMAN: I believe those are in
21 our Exhibit Book 3.

22 MS. FUNDERBURK: Are you referring to
23 DOI exhibits?

24 MR. FRIEDMAN: Yes.

25 MS. FUNDERBURK: And what book are they

1 in?

2 MR. FRIEDMAN: I remember now, thank
3 you.

4 If I could hand these out, Your Honor,
5 including approach?

6 MS. FUNDERBURK: Please approach.

7 MR. BEVERLY: Your Honor, could I have
8 one before the witness gets one, please? Can
9 you give me a moment?

10 Thank you.

11 BY MR. FRIEDMAN:

12 Q Take a second to review those pages.

13 MS. FUNDERBURK: So are these -- I see
14 they're marked with A-1, A-2. A-1 and A-2.
15 Are these corresponding exhibits from the
16 Rate Bureau's?

17 MR. FRIEDMAN: These are excerpts from
18 past Rate Bureau homeowners' filings.

19 MS. FUNDERBURK: But not the current
20 filing.

21 MR. FRIEDMAN: Not the current filing.

22 MS. FUNDERBURK: Okay. Thank you for
23 the clarification.

24 THE WITNESS: Okay.

25 BY MR. FRIEDMAN:

1 Q Do you recognize, for instance, the
2 DOI-32 as being an excerpt from the 2014 homeowners'
3 filing?

4 A Do I recognize it? No. If you -- I
5 mean, I'm not disputing that's what it is.

6 Q Okay. And for each of the categories,
7 Owners, Tenants, Condominiums, in the summary all
8 forms.

9 Are the indicated changes higher than
10 the filed change, or what I would call the
11 recommended change?

12 A Yes.

13 Q And it was the --

14 A And it is the "filed," not
15 "recommended."

16 Q The filed change. That's fine.

17 And that was the bureau's decision,
18 then, to limit the indicated change?

19 A That would have been the governing
20 committee's choice.

21 Q And looking at DOI-33.

22 A Yep.

23 Q This is an excerpt, I can tell you, and
24 we'll get it formally introduced through another
25 witness, but from the 2017 homeowners' filing by the

1 bureau.

2 A Yes.

3 Q And for the owners, tenant, and
4 condominium forms, are the indicated rates all above
5 the filed change?

6 A Yes.

7 Q DOI-34. The -- this, I can tell you,
8 is 2018 homeowners -- an excerpt from the 2018
9 homeowners' filing by the bureau?

10 A Yes.

11 Q And in every instance for the owners,
12 tenants, and condos form, is the filed change less
13 than the indicated change?

14 A Yes.

15 Q And then DOI-35. I can represent this
16 is the 2020 homeowners' filing by the bureau. In
17 this case, for owners, tenants, and condo forms, in
18 every instance is the filed change less than the
19 indicated change?

20 A Yes.

21 Q Want to turn to RB-1, I believe -- or
22 should be A-2 of RB-1. So that would be -- yep,
23 RB-1A is the tab, and the page is A-2.

24 Are you there, ma'am?

25 A Yes.

1 Q For the current filing, are the filed
2 changes --

3 MR. BEVERLY: I'm sorry, Counsel, will
4 you permit the screen to catch up with you,
5 please?

6 MR. FRIEDMAN: I'm sorry. Looks like
7 RB --

8 THE WITNESS: It's there.

9 BY MR. FRIEDMAN:

10 Q For the current filing, does that show
11 the percentages of the indicated change versus the
12 filed change?

13 A Yes.

14 Q And in each instance for the
15 homeowners, tenants, and condo forms, is the filed
16 change the same as the indicated change?

17 A Yes.

18 MR. FRIEDMAN: That's all I have, Your
19 Honor.

20 MR. BEVERLY: Your Honor, may we have a
21 moment?

22 MS. FUNDERBURK: Yes.

23 MR. BEVERLY: No more questions, Your
24 Honor.

25 MS. FUNDERBURK: Thank you, Counsel.

1 I believe this is the only witness --
2 the last witness that we had scheduled for
3 today; is that correct?

4 MR. FRIEDMAN: Yes, ma'am.

5 MS. FUNDERBURK: Are there any matters
6 we need to address before we recess?

7 MR. BEVERLY: Can we approach, Your
8 Honor?

9 MS. FUNDERBURK: Please.

10 (A bench conference was had off the
11 stenographic record.)

12 MS. FUNDERBURK: Thank you, Counsel.
13 Are there any other matters we need to
14 address?

15 MR. BEVERLY: Not from the Rate Bureau.

16 MR. FRIEDMAN: No, ma'am.

17 MS. FUNDERBURK: Thank you,
18 Ms. Biliouris, for your participation.
19 You're free to step down.

20 THE WITNESS: Thank you.

21 MS. FUNDERBURK: All right. And we are
22 in recess until 9:00 a.m. Monday morning.

23 Thank you, Counsel.

24 MR. FRIEDMAN: Thank you, ma'am.

25 (The hearing adjourned at 11:55 a.m.)

1 STATE OF NORTH CAROLINA)

2 COUNTY OF FORSYTH)

3 REPORTER'S CERTIFICATE

4 I, Audra Smith, Registered Professional Reporter
5 in and for the above county and state, do hereby certify that
6 the hearing was taken before me at the time and place
7 hereinbefore set forth; that the proceedings were transcribed
8 and recorded by me by means of stenotype; which is reduced to
9 written form under my direction and supervision, and that this
10 is, to the best of my knowledge and belief, a true and correct
11 transcript.


12 I further certify that I am neither of counsel to
13 either party nor interested in the events of this case.

14 IN WITNESS WHEREOF, I have hereto set my hand this
15 25th day of October, 2024.

16

17

18



19

Audra Smith, RPR, CRR, FCRR

20

Notary Number: 201329000033

21

Commission Expires: June 26, 2025

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