

NORTH CAROLINA DEPARTMENT OF INSURANCE
RALEIGH, NORTH CAROLINA

IN THE MATTER OF THE FILING)
DATED JANUARY 3, 2024, BY THE) COMMISSIONER OF
NORTH CAROLINA RATE BUREAU) INSURANCE
FOR REVISED HOMEOWNERS)
INSURANCE RATES) DOCKET NO. 2157

COPY

BEFORE: AMY FUNDERBURK, HEARING OFFICER

TRANSCRIPT
OF
HEARING

VOLUME XVII - P.M. SESSION

Raleigh, North Carolina

Wednesday, December 4, 2024

1:51 p.m.

A P P E A R A N C E S

On behalf of the North Carolina Rate Bureau

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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 North Carolina Department of Insurance, 3200 Beechleaf Court, Raleigh, North Carolina, on the 4th day of December, 2024, at 1:51 p.m., before Christina Kornikh, Stenographic Reporter and Notary Public.

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P R O C E E D I N G S

* * * * *

1 HEARING OFFICER FUNDERBURK: Good
2
3 afternoon, everyone. Wel come back.

4 MR. SPIVEY: Good afternoon.

5 HEARING OFFICER FUNDERBURK: Is there
6
7 anything we need to address before we resume the
8
9 re-direct of Ms. Cavanaugh?

10 MR. FRIEDMAN: No, what I was -- Your
11
12 Honor, there were a couple preliminary questions to
13
14 basically, set the context for the confidential
15
16 questions or testimony I was going to recite. I
17
18 was going to ask her that and then move right into
19
20 it. It will be done, ideally, within ten minutes.

21 And I don't think, on our side, there's
22
23 anybody in the room who hasn't signed the
24
25 protective order.

HEARING OFFICER FUNDERBURK: Okay. Is
there anyone on the webinar that has not?

(No response.)

HEARING OFFICER FUNDERBURK: All right.
Then at this point, we are going to move into a
confidential session. And I'll ask, Madam Court
Reporter, that you so notate the transcript.
Mr. Friedman believes it will take about ten

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(End of confidential session.)

HEARING OFFICER FUNDERBURK: All right.

Please resume your re-direct, Mr. Friedman.

MR. FRIEDMAN: Give me one second, Your

1 Honor.

2 Q. BY MR. FRIEDMAN: All right. So if you could
3 go to Exhibit 12, 12 in Book 3.

4 A. Okay. I'm there.

5 Q. All right. First of all, do you recall
6 yesterday Mr. Spivey asking you a number of questions
7 about whether you complied with ASOP 38?

8 A. I recall questions about compliance with
9 ASOP 30.

10 Q. 30. Excuse me. Too many ASOPs. Get them
11 confused. Okay.

12 And do you recall your testimony that you had
13 complied with the ASOPs across the board?

14 A. Yes, it was my testimony that I complied with
15 ASOP 38 -- 30 and all relevant ASOPs.

16 Q. All right. Now, do you recall mentioning
17 ASOP 1 yesterday as well to Mr. Spivey?

18 A. Yes.

19 Q. So on page -- well, Bates-stamped page
20 number 6 with the Bates stamps in the lower right-hand
21 corner, would you mind reading into the record 4.3,
22 4.4, 4.5 and -- 4.5.

23 A. Sure.

24 MR. FRIEDMAN: Or Your Honor, if that
25 takes up too much time and you want to make sure

1 she's done today, I can either read them in or
2 everybody can take, you know, a chance to review
3 them for themselves.

4 HEARING OFFICER FUNDERBURK: Sure.

5 I'll -- I'll let you determine what's necessary for
6 the witness to answer the questions. But whatever
7 option is most expeditious, I would appreciate it.

8 Q. BY MR. FRIEDMAN: Yes. I'll just read them
9 in.

10 4.3: Actuaries should comply with those
11 ASOPs that are applicable to the task at hand.
12 However, not all ASOPs will apply. An ASOP should not
13 be interpreted as having applicability beyond its
14 stated scope and purpose. Actuaries are responsible
15 for determining which ASOPs apply to the task at hand.
16 If no ASOPs specific to the tasks are applicable, the
17 actuary may, but is not required to, consider the
18 guidance in related ASOPs. Most, but not all ASOPs,
19 are ask-specific, dealing with particular kinds of
20 actuarial services. A few ASOPs, however, deal more
21 broadly with particular aspects of many types of
22 actuarial services, such as ASOP numbers 23, 41 and
23 this introductory ASOP.

24 4.4: When an actuary believes that multiple
25 ASOPs have conflicting provisions when applied to a

1 specific situation and none provide explicit guidance
2 concerning which governs, the actuary should apply
3 professional judgment and may wish to contact the ABCD
4 for confidential guidance on appropriate practice.

5 4.5: The ASOPs make specific provision for
6 those situations where the actuary is required to or
7 deems it appropriate to deviate from one or more
8 provisions of an ASOP. It is not a breach of an ASOP
9 to deviate from one or more of its provisions if the
10 actuary does so in the manner described in the ASOP,
11 including making the disclosures related to the
12 deviation as required in such ASOP and in ASOP number
13 41.

14 And then, going to turn to ASOP 41, which is
15 at page 69. And let me ask you, Ms. Cavanaugh, is
16 there a particular section in ASOP 41 that you think I
17 should read?

18 A. Well, the ASOP 1, 4.5 references based on 41,
19 disclosures related to deviations and Section 4.4 of
20 Actuarial Standards of Practice No. 41 does discuss
21 deviation from the guidance of an ASOP.

22 Q. All right. So we are on, then, page 74.
23 That's a long -- so you said it -- 4.1, is there any
24 one subsection of 4.1 particularly --

25 A. I believe I said 4.4.

1 Q. 4.4. So that is on -- ah, page 76. My
2 mistake. I'll read 4.4 into the record:

3 Deviation from the guidance of an ASOP. If,
4 in the actuary's professional judgment, the actuary has
5 deviated materially from the guidance set forth in an
6 applicable ASOP, other than as covered under Sections
7 4.2 or 4.3 of the standard, the actuary can still
8 comply with that ASOP by providing an appropriate
9 statement in the actuarial communication with respect
10 to the nature, rationale -- rationale and effect of
11 such deviation.

12 Now, do those sections of ASOP 1 and ASOP 41,
13 do those inform your testimony that you complied with
14 ASOP 30?

15 A. Yes. And I will explain a little further, if
16 I could. So first off, in Section 4.3 of ASOP 1, it
17 discusses that there are multiple actuarial standards
18 that could be applicable in a particular task. And so,
19 I first considered all relevant Actuarial Standards of
20 Practice. In the context of what we are talking about
21 here, it would be ASOP 1 has some relevant discussion
22 and ASOP 30.

23 And then I also considered whether there was
24 a conflict in the ASOP 30 language with the applicable
25 law. And based on my understanding of the law, I found

1 that there was a conflict. And so in reading ASOP 1
2 and what it said about a conflict with applicable law
3 compared to actuarial standard and in consideration of
4 what was just read here today, I concluded that I would
5 make a note in my pre-filed testimony of that -- of the
6 various provisions and disclose this -- these -- the
7 conflict and the differences in the Actuarial Standards
8 of Practice and so especially with what's stated here
9 in 4.4 is what I've done. I've made it a statement in
10 my actuarial report regarding this -- what's happening
11 here. And this is why I concluded that the Actuarial
12 Standard of Practice No. 30 was complied with. I just
13 had to disclose the deviation.

14 Q. Thank you. I'd like to then move to -- one
15 second, Your Honor.

16 Do you recall Mr. Spivey questioning you
17 yesterday about the fact that you didn't use any actual
18 historical reinsurance premium data in your NCOR
19 calculation?

20 A. Yeah, I recall that discussion.

21 Q. Okay. Could you turn to DOI Exhibit 4. And
22 in particular, I'll be looking at item 104.

23 A. Okay.

24 MR. FRIEDMAN: Mister -- Mr. Spivey, I'm
25 going to read from this. But can I ask, are you

1 able to stipulate that those --

2 HEARING OFFICER FUNDERBURK: Please make
3 sure you're speaking into the microphone.

4 MR. FRIEDMAN: Sorry. Are you able to
5 stipulate that those attachments which were only
6 mentioned here do not contain any actual -- actual
7 data from actual insurers about the calculations
8 and analyses used to deriving the value of the
9 attachment and exhaustion points?

10 MR. SPIVEY: As we -- as we've
11 discussed, this item provides the available
12 information and the -- it does not include any
13 actual individual company contract information
14 because we were not able to provide that. That was
15 confidential information. So there's not any
16 individual company information provided per this
17 request.

18 MR. FRIEDMAN: Okay. So Your Honor, I'm
19 just going to read -- I'm not going to read the
20 various descriptions of the attachments. We have
21 this -- for -- for my purposes, so we don't have to
22 go back into closed court, we have that stipulation
23 suffices.

24 Q. BY MR. FRIEDMAN: So my -- I'll read into the
25 record item 104 without mentioning those attachments:

1 Provide all calculations and analyses used in
2 deriving the value of the attachment and exhaustion
3 points.

4 Response: Rate Bureau objects to this
5 request to the extent that it seeks proprietary and/or
6 confidential information or materials, or information
7 or materials that may constitute or contain trade
8 secret information. Without waiving any objections,
9 see files.

10 And then the files are listed. And then --
11 there are three of them. And then, picking up from the
12 the last two paragraphs: "Confidential information
13 from individual company reinsurance contracts cannot be
14 provided."

15 And actually, I won't read the last
16 paragraph.

17 Ms. -- would you have been able to engage in
18 further analysis of the NCOR had the requested
19 information been provided in response to 104?

20 A. So the key here is that the net cost of the
21 reinsurance is -- the analysis that's done is using a
22 model that's based on data that has not been made
23 available and that's stated in this -- in this response
24 and in other responses.

25 And so, without access to that data or other

1 data to further validate the model, I wasn't able to
2 conclude that the model was reasonable as a reviewer of
3 the filing. And so if -- if that data had been
4 provided, I could have done some analyses to validate
5 or to attempt to validate.

6 MR. FRIEDMAN: Thank you. And now, I'm
7 going to turn to item 113. And Mr. Spivey, do you
8 stipulate to the same, that where these mention
9 confidential attachments, they aren't including any
10 actual carriers' reinstruct -- data information,
11 analyses, calculations, formulas and modeled use?

12 MR. SPIVEY: Same stipulation applies.
13 We could not provide any actual individual
14 company's reinsurance contracts because they were
15 confidential.

16 Q. BY MR. FRIEDMAN: Okay. Then I'm going to
17 read in the the following excerpts, then, from 113:

18 Provide the derivation of each of the
19 reinsurance structures values. Provide all underlying
20 data, information, analyses, calculations, formulas,
21 models and use relied upon or considered in any manner.

22 Response: The Rate Bureau objects to this
23 request to the extent that it seeks proprietary and/or
24 confidential information or materials, or information
25 or materials that may constitute or contain trade

1 secret information. Without waiving any objection --
2 then it goes on to list the attachments.

3 And then it says, in the next to last
4 paragraph: Confidential information from individual
5 company's reinsurance contracts cannot be provided.

6 And Ms. Cavanaugh, I have the same question
7 for you. Would you have been able to conduct a more --
8 further analysis had this data been provided?

9 A. Yeah, my answer would be very similar to the
10 answer -- this is a similar request related to the net
11 cost of reinsurance calculation. So my answer is the
12 same as my prior answer.

13 Q. Do you recall Mr. Spivey questioning you
14 yesterday about why you used the RMS historical for all
15 purposes, including estimating the NCOR, rather than
16 using the RMS medium term for the same purposes the
17 NCRB used it for, including estimating the NCOR?

18 A. Yeah, I recall a discussion on why using
19 medium term versus long term model results.

20 Q. Would you have been able to try to validate
21 Ms. Mao's use of the RMS medium term for the NCOR if
22 the NCRB had provided any of the actual net premium
23 data or reinsurance premium data the DOI asked for in
24 those requests -- those data requests we just went
25 over?

1 A. Yeah, so I believe that the requests related
2 to premium values might be in a different section. The
3 requests that we just went over relate to reinsurance
4 structure. But similarly, there was -- there were
5 requests for the premium information underlying those
6 models. And that would have been useful to review for
7 the reasons that I've discussed in my pre-filed
8 testimony and the testimony I've provided during the
9 hearing.

10 Q. And I probably should clarify. Do you recall
11 this morning going over Ms. Mao's testimony about her
12 being unable to provide any reinsurance premium data
13 for those clients she allegedly incorporated into her
14 NCOR calculations?

15 A. I do, yes. I -- I recall that. And that's
16 related to the answer I just gave.

17 Q. Okay. And finally, if you had used the RMS
18 medium term for, I guess, specifically the purposes of
19 calculating the NCOR, would your calculations or your
20 indications have been higher or lower?

21 A. It would have been lower. And I discussed
22 this in my -- I think it was yesterday or the day
23 before during the hearing. And it's also shown in an
24 exhibit to my pre-filed testimony. And this would have
25 been because I would adjust the analysis of the cat

1 bond pricing, as well as the seated losses under the
2 structure.

3 Q. Do you recall Mr. Spivey questioning you
4 about frequencies by category in the actual data versus
5 frequencies in the AIR and RMS results?

6 A. Yes.

7 Q. And did that relate to your applying a
8 hundred percent weight to the RMS model output results?

9 A. Yeah, the question was related to my -- the
10 discussion in the pre-filed testimony on catastrophe
11 provision and my conclusion of placing a hundred
12 percent weight on the RMS results.

13 Q. Was the analysis of frequencies in the actual
14 data versus those from the AIR and RMS results only one
15 of the many elephants you reviewed in your hurricane
16 loss analysis?

17 A. That's right. I reviewed many other pieces,
18 as is discussed in my pre-filed testimony and in the
19 hearing.

20 Q. And did the Rate Bureau provide any rationale
21 for the differences that you observed between the AIR
22 and RMS model results in this file?

23 A. It did not.

24 Q. Have you worked on filings in other states
25 where a regulator did not accept the full weight of an

1 insurers' s modeled losses -- loss -- hurricane or
2 catastrophe losses, specifically?

3 A. Could you say that one more time.

4 Q. Sure. Have you worked on filings in other
5 states for a regulator that did not accept the full
6 weight of an insurer' s modeled catastrophe losses?

7 A. Yeah, I would just state that, you know,
8 there are times when a regulator will either deny the
9 rate revision or only accept a partial rate revision.
10 And I have seen instances where that is due, in part,
11 to the use of catastrophe model results, among other
12 elements.

13 Q. Knowing you're not an attorney, nonetheless,
14 what's your understanding about whose burden it is --
15 namely, yours or the Rate Bureau' s -- to establish the
16 appropriate support for the catastrophe provision?

17 A. My understanding is it's the Rate Bureau' s
18 responsibility to provide support for all of its
19 assumptions and methodologies in its requested
20 revisions.

21 Q. And so, would that include support for
22 establishing 50/50 weighting between AIR and RMS?

23 A. Yeah, that's an assumption included in the
24 the requested revision -- the indication related to the
25 the requested revision.

1 Q. So let's turn to DOI Exhibit 53 that
2 Mr. Spivey was asking you about this morning. Do you
3 recall Mr. Spivey asking you for an example in 2024 of
4 a New Jersey filing that you worked on in which the
5 insurer provided reinsurance premiums from a past
6 period as part of its support for its NCOR
7 calculations?

8 A. Yes. And yes, that's what I remember.

9 Q. And is Exhibit DOI Exhibit 53 an accurate
10 copy of the public excerpts from that filing?

11 A. Yeah, to my knowledge, these are excerpts
12 from the filing.

13 MR. FRIEDMAN: And the -- I move to then
14 admit DOI 53, Your Honor.

15 HEARING OFFICER FUNDERBURK: Any
16 objection, Mr. Spivey?

17 MR. SPIVEY: No objection.

18 HEARING OFFICER FUNDERBURK: Exhibit 53
19 is admitted.

20 (Exhibit 53 admitted into evidence.)

21 Q. BY MR. FRIEDMAN: And if you could give me a
22 second, Your Honor, I need to find in here a couple of
23 things.

24 Let me try it this way, because we didn't
25 place Bates stamps on this. Does this Exhibit DOI 53

1 contain in two places the insurer referring to
2 historical averages when determining its proposed net
3 cost of reinsurance?

4 And I'm sorry if that -- if that makes you
5 have to go through it. I understand.

6 A. So it does reference -- I guess I can answer
7 that it does show prior reinsurance expenses and a
8 selection based on averages related to those.

9 Q. Okay. And if you could turn, then, to NC DOI
10 Exhibit 54.

11 A. Okay.

12 Q. If you recall, Mr. Spivey asked you about
13 this this morning. And do you recall him yesterday
14 asking you for an example from 2024 from a Georgia
15 filing that you worked on in which the insurer provided
16 modeled hurricane losses?

17 MR. SPIVEY: I believe that would have
18 been on Monday.

19 MR. FRIEDMAN: Monday. Excuse me.

20 A. I recall him asking me those questions and
21 this is in response to that request, as was the other
22 doc -- I don't think I mentioned that before, but the
23 other filing was also nearly in response to the
24 request.

25 Q. And is 54 an accurate copy of excerpts from

1 that public filing?

2 A. Yes.

3 MR. FRIEDMAN: Your Honor, we move to
4 admit Exhibit 54.

5 MR. SPIVEY: No objection.

6 HEARING OFFICER FUNDERBURK: Exhibit 54
7 is admitted into the record. Thank you.

8 (Exhibit 54 admitted into evidence.)

9 Q. BY MR. FRIEDMAN: And in Exhibit 54, does
10 that demonstrate the insurer that made the filing in
11 Georgia providing modeled hurricane losses in support
12 of its rate filing?

13 A. Yes.

14 Q. All right. Mr. Spivey asked you this morning
15 about what's labeled DOI 55.

16 A. Yes.

17 Q. Now, did you prepare this exhibit based on
18 questions from Mr. Spivey yesterday?

19 A. Yes.

20 Q. And do you recall specifically stating to The
21 Court that you would prefer to having time to go back
22 and check your calculations about the methods that
23 Mr. Spivey was asking about that you used for your
24 underwriting profit provision?

25 A. Yes.

1 Q. Okay. And is this your -- did you prepare
2 this in order to address what you told The Court you
3 needed extra time to?

4 A. Yes.

5 Q. Okay. So could you explain your calculation
6 in this Exhibit 501 -- DOI 55 about your -- explain
7 your calculation of the direct underwriting profit.

8 A. Sure. So -- and this was in relation to the
9 discussion that we were -- that were questioning
10 regarding the direct underwriting profit and the
11 comparison I was making to -- to direct underwriting
12 profit that is shown in the NAIC data to what would be
13 in this filing. And there was a question of what the
14 direct underwriting profit is in this filing.

15 And I did have to -- I'm glad that I went
16 back and -- and looked at my calculations because I did
17 have to amend. So I would -- I would just clarify for
18 the record that, you know, what I stated there, I did
19 have to, indeed, change that. So this is showing
20 different numbers than what I was saying yesterday.

21 But -- but what this shows in the top part in
22 rows 1 through 7 is an apples to apples comparison
23 between what would be shown as a calculated
24 underwriting -- direct underwriting profit in the NAIC
25 pages, of which the ten-year average was a 7.7 percent

1 and what would be implied in the filing using the
2 assumptions underlying my alternative indication.

3 And so, the -- the direct underwriting profit
4 is calculated based on looking at the direct premium,
5 the total direct premium, and then subtracting out the
6 losses and the fixed expenses and the variable
7 expenses. So -- so that's what's shown here in line --
8 in line 7, is just looking at whatever the remainder
9 would be after looking at all of the losses and
10 expenses and dividing by the premium and the direct
11 underwriting percentages is 21.6 percent.

12 Another question that came up was what the
13 7.7 percent selected what -- how that was used in my
14 analysis and I explained that the analysis,
15 essentially, reviewed the net cost of the reinsurance
16 separately and then reviewed the net underwriting
17 profit, so on the -- on the retained portion. And so,
18 I -- I show that calculation here, how basically, the
19 numbers all line up so that the -- when you look at
20 just divided by the net premium, what the overall
21 profit level would be, looking at the profits, dividing
22 by the net premium gets you to a 7.7 underwriting
23 percentage.

24 Now, in my pre-filed testimony, I discuss,
25 you know, the reason for that differential between that

1 21.6 percent, obviously, is a lot higher than 7.7
2 percent that -- that was used by the NAIC and so -- or
3 that -- I'm sorry -- the NAIC average direct
4 underwriting profit. And so I would just reference
5 that page --

6 Q. Would that be in DOI 40?

7 A. No, it -- it -- DOI 2, my pre-filed
8 testimony, discusses, you know, a couple of things that
9 I know with the metric that I used, that it was on a
10 direct basis. And it's not all set for the cost of
11 reinsurance and -- and so that would -- and then I --
12 and then I state basically that I don't make an
13 adjustment for that. So that's why there's that --
14 that disparity. But at the end of the day, it is
15 intended to reflect the -- the net -- the net
16 underwriting profit, which had I adjusted for that, my
17 indication would have been lower.

18 Q. All right.

19 A. I guess one more thing I just wanted to --

20 Q. Please.

21 A. -- to state was that in DOI 40, which I don't
22 think I have in front of me, but maybe it can be pulled
23 up on the screen -- one thing I considered when
24 thinking about well, how does the NAIC determine its
25 direct underwriting profits, is there any consideration

1 of that net cost of reinsurance? And the reason why I
2 concluded that it's before any cost of reinsurance is
3 if you scroll down to --

4 Q. Would that be the PDF page 3?

5 A. PDF -- I think it's page 3 of the -- yeah.
6 Page 3 has a section on allocation of expenses. It
7 talks about a lot of different expenses. But the
8 reinsurance cost is not listed in there. And in fact,
9 it talks about the differences between profitability on
10 a net versus a direct basis. So that just helps to
11 support my conclusion that the direct underwriting
12 profits that are shown in the NAIC would be prior to
13 any net cost of reinsurance.

14 So in the calculation that was made -- that
15 Mr. Spivey asked me to get out my calculator and do and
16 it was something 5.6 or something like that, that was
17 not -- that was subtracting out the net cost of
18 reinsurance. And so that would be an apples and
19 oranges comparison. The apples to apples would be the
20 the 21.6 compared to the 7.7.

21 Q. All right. I wanted to quickly refer you
22 back to DOI 53 and 54. Did you provide these only
23 because Mr. Spivey had asked for them?

24 A. That's correct.

25 Q. Okay. And when you referenced in your CV and

1 in your testimony your experience relevant to reviewing
2 both catastrophe models and evaluating the net cost of
3 reinsurance, are these the only two filings that form
4 the basis for that experience?

5 A. No. And I do go into that quite a bit in my
6 pre-filed testimony and the testimony I've provided
7 here at the hearing. But I have reviewed, you know,
8 many, many filings. I've overseen the review of
9 hundreds of filings, and so this is not related --
10 these two filings are -- do not represent, you know,
11 the extent of the experience that I have reviewing the
12 the net cost of reinsurance and reviewing the
13 catastrophe model catastrophe results. They're not
14 even really the ones that I would choose to point to
15 you regarding that experience.

16 MR. FRIEDMAN: All right. So Your
17 Honor, I think I'm nearing a closing point. But
18 I'd like to, first of all -- well, first of all, I
19 need to move to introduce DOI 55.

20 HEARING OFFICER FUNDERBURK: Any
21 objection, Mr. Spivey?

22 MR. SPIVEY: No, Your Honor.

23 MR. FRIEDMAN: And then there are a
24 couple --

25 HEARING OFFICER FUNDERBURK: Exhibit 55

1 is admitted.

2 (Exhibit 55 admitted into evidence.)

3 MR. FRIEDMAN: Thank you. There are a
4 couple of exhibits that we -- Mr. Beverly and I
5 have been working on stipulations to the remaining
6 DOI exhibits in the notebooks. And there are a
7 couple of things that are still unresolved. If we
8 could have a ten-minute break, both for me to --

9 HEARING OFFICER FUNDERBURK: Are we --
10 we need to get finished with Ms. Cavanaugh.

11 MR. FRIEDMAN: She may be necessary to
12 authenticate one of the exhibits unless they're
13 willing to stipulate to it.

14 HEARING OFFICER FUNDERBURK: Which
15 exhibit is that?

16 MR. FRIEDMAN: That would be Exhibit
17 DOI 11, the AON presentations, Texas Wind Storm
18 Association presentation.

19 MR. BEVERLY: May we have a moment --
20 one moment, Your Honor?

21 HEARING OFFICER FUNDERBURK: Yes,
22 please.

23 Is that Book 3, Exhibit 11, or is that a
24 different exhibit?

25 MR. FRIEDMAN: It's in Book 3, yes.

1 HEARING OFFICER FUNDERBURK: Book 3.

2 MR. BEVERLY: We have no objection to
3 DOI 11, Your Honor.

4 HEARING OFFICER FUNDERBURK: Okay. With
5 no objection, DOI Exhibit 11, which is contained in
6 Book 3, is admitted.

7 (Exhibit 11 admitted into evidence.)

8 MR. FRIEDMAN: And then, there are
9 another six or seven exhibit -- exhibits that we
10 contend are public record --

11 HEARING OFFICER FUNDERBURK: Are these
12 ones that Ms. Cavanaugh may be necessary for?

13 MR. FRIEDMAN: No, they are not.

14 HEARING OFFICER FUNDERBURK: Then we
15 need to move on and make sure we've covered her
16 time judicially.

17 MR. FRIEDMAN: Give me a couple seconds
18 to make sure I've covered what else I need to.

19 One last set of questions, Your Honor.

20 Q. BY MR. FRIEDMAN: Ms. Cavanaugh, could you
21 turn to the Exhibit 2, your testimony. And
22 particularly, go to your CV. I guess, is everybody
23 there at the CV? All right.

24 So Ms. Cavanaugh, do you recall Mr. Spivey
25 questioning you about past instances when you had

1 testified in proceedings?

2 A. Yes.

3 Q. Okay. And could you go through your CV, note
4 instances -- the instances where you have testified in
5 the past and then also specify whether those were live
6 during a trial or else in deposition?

7 A. Sure. So first off, I would just reference
8 the last bullet on page 3 of my CV that -- that was
9 a -- that was an instance where I provide -- provided
10 testimony with an actuarial -- I'm sorry -- an expert
11 report deposition and testimony at the hearing.

12 Then on the bottom of page 2, I provided an
13 expert report in an arbitration between an insurer and
14 its policyholder related to the calculation in respect
15 to premiums too. But that case was settled before it
16 went to even a deposition.

17 And then also, we discussed this with some of
18 Mr. Spivey's questions, but I also state in my CV that
19 I have testified at regulatory hearings, but those were
20 not rate hearings. That was just related to what I
21 asked, you know, in that line of questioning. And the
22 other instances discussing litigation support related
23 to other matters that settled before they got to any
24 kind of hearing or my involvement in cases that did go
25 to a hearing, but it was another expert that was

1 testi fyi ng.

2 MR. FRIEDMAN: All right. Thank you,
3 very much. And Your Honor, that is the end of my
4 re-di rect of Ms. Cavanaugh. If you'd like me to
5 wait for their -- do their -- any re-cross they
6 have and then enter the -- move to admit our
7 exhi bits, I'm happy to do that.

8 HEARING OFFICER FUNDERBURK: Yes, let's
9 wai t. Do you have re-cross, Mr. Spi vey?

10 MR. SPIVEY: May we have five minutes?

11 HEARING OFFICER FUNDERBURK: Yes.

12 (A short break was taken.)

13 HEARING OFFICER FUNDERBURK: Mr. Spi vey,
14 are you ready to resume?

15 MR. SPIVEY: I am, Your Honor.

16 HEARING OFFICER FUNDERBURK: Please
17 proceed wi th re-cross.

18 RE-CROSS EXAMI NATION BY MR. SPIVEY:

19 Q. Ms. Cavanaugh, in your RE-DIRECT EXAMI NATION
20 BY Mr. Friedman, you addressed the testimony you gave
21 yesterday upon cross-exami nati on regarding ASOP 30 and
22 whether you complied. Do you recall generally the
23 questions from Mr. Friedman on that just this
24 afternoon?

25 A. I do.

1 Q. And in your re-direct testimony, you were
2 pointing us to ASOP 1 and ASOP 41, correct?

3 A. That's right.

4 Q. And you specifically pointed us to ASOP 41,
5 Section 4.4, did you not?

6 A. I believe so. I should probably get it in
7 front of me. What exhibit is that?

8 Q. It's in Exhibit DOI 12.

9 A. 12. Thank you.

10 Q. And it's on the Bates stamp number 76.

11 A. Thank you. Bear with me. Okay. Yes.

12 Q. In Section 4.4 there of ASOP 41 addresses the
13 situation where if, in the actuary's professional
14 judgment, the actuary has deviated materially from the
15 guidance set forth in an applicable ASOP, other than as
16 covered under sections 4.2 or 4.3 of the standard, does
17 it not?

18 A. Yes.

19 Q. So let's turn to Section 4.2.

20 A. Okay.

21 Q. And just to get it into the record, 4.2 reads
22 as follows. It's entitled: Certain assumptions or
23 methods prescribed by law. Where any material
24 assumption or method was prescribed by applicable law,
25 or in statutes, regulations, and other legally binding

1 authority, closed paren, the actuary should disclose
2 the following in the actuarial report; A, the
3 applicable law on which the report was prepared; B, the
4 assumptions or methods that are prescribed by the
5 applicable law; and C, that the report was prepared in
6 accordance with the applicable law. If the actuarial
7 report is in a prescribed form that does not
8 accommodate these disclosures, the actuary should make
9 these disclosures in a separate communication, such as
10 a cover letter to the principal requesting that both
11 communications be disseminated together where
12 practicable.

13 Did I read that correctly?

14 A. You did.

15 Q. So your testimony in this case is that you
16 performed the comparable earnings analysis in order to
17 determine an underwriting profit provision because of
18 your understanding that that was essentially prescribed
19 by the North Carolina law, correct?

20 A. No.

21 Q. You testified on cross that you had not
22 performed comparable earnings analysis or you typically
23 do not perform a comparable earnings analysis to
24 determine an underwriting profit provision, did you
25 not?

1 A. I -- I recall discussing that, you know, what
2 I -- what I would normally do and my considerations
3 given the law and my understanding of the law. We
4 could refer to my testimony. My pre-filed testimony, I
5 think, discusses this, you know, my consideration of
6 the applicable law and the Actuarial Standard of
7 Practice No. 30.

8 Q. And turning in your testimony, DOI 2 to page
9 40, you state up at lines 3 through 10, essentially,
10 that your understanding is that cost of capital
11 approach is not permitted under the law in North
12 Carolina, do you not?

13 A. That's my understanding and that's a summary
14 of what I stated.

15 Q. And then you go on in lines 11 through 16
16 that if an approach permissible under North Carolina
17 law is a comparable earnings analysis, do you not?

18 MR. FRIEDMAN: Your Honor, this is
19 outside the scope of anything I asked on re-direct.
20 I didn't address the profit provision.

21 HEARING OFFICER FUNDERBURK: You didn't
22 address the what?

23 MR. FRIEDMAN: The profit provision. I
24 didn't address cost of capital on re-direct.

25 MR. SPIVEY: We are talking about the

1 ASOP testimony that Mr. Friedman questioned her
2 about.

3 HEARING OFFICER FUNDERBURK: Yeah. I
4 would consider this to fall within the questioning
5 of compliance with -- with the ASOPs. Please
6 proceed, Mr. Spivey.

7 Q. BY MR. SPIVEY: So I gather from your answer
8 A moment ago that you are testifying now that the
9 comparable earnings analysis that you performed was not
10 because it was prescribed by North Carolina law; is
11 that what you just said?

12 MR. FRIEDMAN: Your Honor, if I could
13 just make sure we're saying "prescribed" or
14 "proscribed."

15 HEARING OFFICER FUNDERBURK: Which --

16 MR. SPIVEY: If I'm mispronouncing the
17 word "prescribed," I apologize.

18 HEARING OFFICER FUNDERBURK:
19 "Prescribed" is the -- is the word you're intending
20 to use, correct, Mr. Spivey? And there's a lawyer
21 joke there somewhere.

22 MR. FRIEDMAN: Yeah, I'm sure.

23 A. Okay. So to answer the question -- I -- my
24 understanding isn't that -- that the law prescribes it
25 but rather permits a comparable earnings analysis. And

1 that's what I state in my pre-filed testimony.

2 Q. Your testimony in your pre-filed testimony
3 that I just pointed you to indicates, at least to me,
4 that you performed a comparable earnings analysis based
5 on your understanding that that is what is permitted
6 under North Carolina law; is that correct?

7 A. I just want to clarify that the reason why I
8 said no originally was because the word "prescribed"
9 was used. So it's my understanding -- just to make it
10 clear, it's my understanding that North Carolina
11 permits a comparable earnings analysis. And that is
12 what I performed.

13 Q. Is it -- by making those distinctions,
14 Ms. Cavanaugh, is it your contention that Section 4.2
15 of ASOP 41 does not apply in this situation?

16 A. So that -- it could be interpreted to -- I
17 wouldn't say that the comparable earnings was
18 prescribed, but it could be -- I'm just thinking this
19 through that -- that cost of capital methodology is not
20 permitted. That could be -- I think you could kind of
21 conclude that that's as prescribed by law, the not
22 permitting that methodology be used. And if so, then
23 this section of the ASOP would be applicable. And I
24 have disclosed the applicable law, the assumptions or
25 methods that were, in this case, not allowed under the

1 applicable law and how -- how my analysis was prepared.

2 Q. And in our questions and answers pertaining
3 to ASOP 30 under cross-examination, we discussed
4 whether, in fact, you had disclosed -- whether, in
5 fact, you had prepared an underwriting profit provision
6 in compliance with ASOP 30 and disclosed any material
7 difference between that and the profit provision you've
8 developed per your understanding of North Carolina law.
9 Do you recall those discussions?

10 A. I did -- I recall those questions.

11 Q. Did you make any disclosures regarding or
12 underwriting profit in a separate communication such as
13 a cover letter to the principal -- and I'm looking at
14 the wording in Section 4.2 of ASOP 41 regarding the
15 matters addressed in ASOP 30, Section 4.1.

16 MR. FRIEDMAN: Your Honor, we are on the
17 verge of getting back into the questions that were
18 asked yesterday about the content of communications
19 about the issue of cost of capital with counsel.
20 And I am her contact with the client. I think I
21 can let that question go, but much beyond it, I'm
22 going to be concerned.

23 MR. SPIVEY: I didn't hear an objection.

24 HEARING OFFICER FUNDERBURK: I think we
25 can infer an objection, Mr. Spivey.

1 MR. SPIVEY: Well, I haven't asked her
2 about the substance of any disclosure.

3 HEARING OFFICER FUNDERBURK: Go ahead --
4 do you need that question repeated or can you
5 answer the question he presented?

6 It -- it sounds -- it sounds as though
7 it's almost as if I'm getting towards an objection. So
8 maybe we won't infer an objection. We are getting
9 towards an objection, expressing a concern.

10 Would you like that question repeated?

11 THE WITNESS: Yes.

12 HEARING OFFICER FUNDERBURK: Please
13 repeat the question, Mr. Spivey.

14 MR. SPIVEY: I'll try.

15 MR. FRIEDMAN: What section could you
16 remind me we are in the ASOP?

17 MR. SPIVEY: I'm sorry?

18 MR. FRIEDMAN: What section in the ASOP
19 are you reading from, in ASOP 30?

20 HEARING OFFICER FUNDERBURK: Please make
21 sure you're speaking in the microphone.

22 MR. FRIEDMAN: Sorry. If you could
23 remind me, Counsel, what section in ASOP 30 you're
24 referring to.

25 MR. SPIVEY: Well, we're starting in

1 ASOP 41, which you asked about.

2 MR. FRIEDMAN: Right. But you had just
3 turned back to ASOP 30.

4 MR. SPIVEY: Right. And then we're --

5 MR. FRIEDMAN: I thought you were
6 reading now from ASOP 30.

7 MR. SPIVEY: And then we're referring
8 back to ASOP 30, Section 4.1.

9 Q. BY MR. SPIVEY: And my question,
10 Ms. Cavanaugh, is whether the disclosures that are
11 described in ASOP 30, Section 4.1, whether you made any
12 of those disclosures in a separate communication in the
13 manner described in ASOP 41, Section 4.2, meaning by a
14 separate communication such as a cover letter to the
15 principal?

16 A. Okay. So first, in 4.2, it says, you know,
17 if the actuarial report is in a prescribed form that
18 does not accommodate those disclosures. I don't think
19 that's applicable here. I think I've provided any
20 disclosures that I -- that I felt like I needed to
21 provide in the pre-filed testimony, which would be one
22 example of an actuarial report here. As far as whether
23 I made a disclosure related to 4.1 of ASOP 30, as I
24 discussed previously, I will actually reference my
25 pre-filed testimony on that, but I do discuss that very

1 section, 4.1. I disclose that in Section 4.1, it says
2 it requires the actuary to disclose any material
3 difference between the rates so developed and the
4 actuarially-determined rate. However, in this
5 situation, it's my understanding that providing a
6 comparison between the comparable earnings analysis and
7 the analysis using a cost of capital approach would
8 also be impermissible.

9 So I found myself in a situation where I
10 could not then comply -- or I could -- it was in
11 conflict, right, with the -- the Section 4.1 and what
12 it was stating that I should do was in conflict with
13 the law. And so then, I went to ASOP No. 1 -- and this
14 is all documented in my report -- in Section 3.1.5
15 where it says: Where requirements of the law conflict
16 with the guidance of the ASOP, their requirements of
17 the law shall govern.

18 And so my -- what I am saying is this has all
19 been disclosed in my pre-filed testimony and the -- any
20 deviations that I needed to discuss were disclosed and
21 therefore, there is no -- that therefore, I have -- I
22 have complied with the actuarial standards -- the
23 applicable actuarial standards in the context of this
24 analysis.

25 Q. Ms. Cavanaugh, your testimony yesterday was

1 that you considered your testimony to be your actuarial
2 report, correct?

3 MR. FRIEDMAN: Your Honor, if he's got a
4 cite to that transcript? He's making some
5 specific --

6 MR. SPIVEY: I can't hear you.

7 MR. FRIEDMAN: Do you have a cite to the
8 the transcript from tomorrow, because you're
9 making -- from yesterday? Because you're making
10 very specific statements about what she said.

11 MR. SPIVEY: I'm asking her whether she
12 recalls that.

13 HEARING OFFICER FUNDERBURK: He's asked
14 if she recalls. If she doesn't recall, then we
15 will -- we will proceed from there.

16 Please answer, Ms. Cavanaugh, to the
17 extent you're able.

18 A. Yeah, I don't recall saying those exact
19 words.

20 Q. You don't --

21 A. I might have, but I don't recall stating
22 those exact words.

23 Q. All right. Whether those were the exact
24 words or not, is it your testimony that your actuarial
25 report to your employer or your client in this matter

1 is this document that has been marked Exhibit D01 2,
2 your pre-filed testimony and exhibits?

3 A. And I'm just thinking because, you know, so
4 the pre-filed testimony, when it was initially
5 provided, would have been the actuarial report. But I
6 have provided additional clarifications and that
7 Table 15B and Exhibit D01 54, and per the definition of
8 the actuarial report, which I could go back and look at
9 exactly the wording in Actuarial Standard of Practice
10 No. 40, but I think that that would be then all
11 including -- included into my actuarial report.

12 MR. FRIEDMAN: Your Honor, can we have a
13 bench conference about something that's directly
14 related to this but that hopefully will revolve
15 this whole issue?

16 HEARING OFFICER FUNDERBURK: Please
17 approach.

18 (A bench conference was held off the
19 record.)

20 HEARING OFFICER FUNDERBURK: All right.
21 Thank you, Counsel.

22 MR. SPIVEY: We have no further
23 questions of this witness.

24 HEARING OFFICER FUNDERBURK: Thank you.
25 Mr. Friedman, do you have any additional witnesses?

1 MR. FRIEDMAN: Nope. Except that --
2 yeah, we just want to put on our exhibits and then
3 discuss some things going forward.

4 HEARING OFFICER FUNDERBURK: Well, do
5 you plan to request to recall Mr. Schwartz?

6 MR. FRIEDMAN: We are going to need to
7 do that and Mr. Schwartz is working on -- he has
8 told me he will get the redone expert report by
9 8:00. I am obviously going to have to spend a
10 little time reviewing it.

11 MR. SPIVEY: Did you say by 8:00?

12 MR. FRIEDMAN: 8:00. That I'm going to
13 review --

14 HEARING OFFICER FUNDERBURK: 8:00 p.m.?

15 MR. FRIEDMAN: Yes, 8:00 p.m. tonight.
16 That I'm going to have to review what he did. I
17 hope to be able to do that in an hour or if
18 maybe -- if I have questions myself, call him back
19 about it if he's up, so -- but I intend to get that
20 to Mr. Spivey sometime before midnight.

21 The problem obviously that causes for
22 the Rate Bureau is that they don't have time to
23 review it in the event I were to recall him
24 tomorrow morning, so I don't know how to address
25 that issue.

1 HEARING OFFICER FUNDERBURK: I cannot
2 imagine in any way -- and again, I don't want to
3 speak for Counsel -- but if I were litigating the
4 case, I would not be ready for cross-examination of
5 a recalled witness on a report that I got eight
6 hours before.

7 MR. FRIEDMAN: Certainly understand.

8 MR. SPIVEY: I would agree with that but
9 it's all contingent on what we receive.

10 HEARING OFFICER FUNDERBURK: What you
11 receive in the report.

12 Do we have any indication of what type
13 of changes we are looking at?

14 MR. FRIEDMAN: My understanding, based
15 on what he told me last night, is that it is -- it
16 is -- it all arises from the corrections he already
17 made. And that when he testified to that, he
18 didn't notice that, oh, it affects yet other
19 exhibits and other numbers in my pre-filed
20 testimony, and that he is now going back and
21 correcting those other numbers that arose from his
22 original corrections. I have to see that. And
23 talk with him about that.

24 MR. SPIVEY: And it's your understanding
25 that these are going to be material to his

1 testimony?

2 MR. FRIEDMAN: That, I am not an act- --
3 I don't have enough actuarial knowledge to really
4 determine what's material to an actuary or, for
5 that matter, what would be material to y'all such
6 that you'd need to cross him.

7 HEARING OFFICER FUNDERBURK: And when is
8 he going to be available?

9 MR. FRIEDMAN: He is available remotely,
10 my understanding is tomorrow -- but I can check
11 that and get back -- by 4:30. But he's also
12 available on Friday. I, you know, I can -- if I
13 get some idea of how much time they would need to
14 review it, I can --

15 HEARING OFFICER FUNDERBURK: And I
16 don't --

17 MR. FRIEDMAN: -- nail down a --

18 HEARING OFFICER FUNDERBURK: And that --
19 that would take a crystal ball at this point --

20 MR. FRIEDMAN: Sure.

21 HEARING OFFICER FUNDERBURK: -- both for
22 you to determine how much time you need to review
23 and digest it --

24 MR. FRIEDMAN: Sure.

25 HEARING OFFICER FUNDERBURK: And review

1 it potentially with others, and then for the Rate
2 Bureau to be able to review it and make a, you
3 know, make arguments and dissect it.

4 Is he available on site Friday?

5 MR. FRIEDMAN: If the Rate Bureau and/or
6 The Court would like him on site, I can talk to him
7 about what days he could fly down here, because we
8 would be willing to certainly produce him here in
9 Raleigh. I just can't say -- if, you know, that's
10 the preference -- I just can't say what days those
11 would be.

12 HEARING OFFICER FUNDERBURK: All right.
13 The first step is getting that report and giving
14 the Rate Bureau an opportunity to review that
15 report so that Mr. Beverly and Mr. Spivey can
16 determine how it impacts them and how much time
17 they actually need to get prepared.

18 I'm looking at the calendar that we had
19 previously. Had we finished and not had this issue
20 with Mr. Schwartz, you would have been prepared for
21 rebuttal tomorrow and Friday, I believe?

22 MR. SPIVEY: That's correct.

23 HEARING OFFICER FUNDERBURK: And then we
24 would be looking at the next days, December 12th,
25 then December 16th, the afternoon of the 17th,

1 December 18th, 19th and 20th, I believe. That's
2 what I have in my notes.

3 MR. SPIVEY: Your Honor, the -- my
4 recollection of the days that we have -- that have
5 been communicated to us was that we had the 12th,
6 the 16th and the 18th.

7 HEARING OFFICER FUNDERBURK: 12th, 16th
8 and the 18th. Yeah. We --

9 MR. SPIVEY: Now, I'm not suggesting
10 that -- that we want it to be that way. I'm just
11 saying that's what's been communicated to us.

12 HEARING OFFICER FUNDERBURK: Oh, I don't
13 think any of us want it to be that way.

14 MR. SPIVEY: Yeah.

15 HEARING OFFICER FUNDERBURK: All right.
16 I think we need to basically regroup in the morning
17 and see where things are. I don't think there's a
18 need to drag everybody here at 9:00 a.m. tomorrow
19 morning. We can probably make some determinations
20 over the phone after you've had an opportunity to
21 review and you've had an opportunity to review and
22 to determine how it's going to impact things.

23 I would very much like to proceed as
24 quickly as we can to get Mr. Schwartz's testimony
25 out of the way. If that was tomorrow, that would

1 be fantastic. But again, I don't expect you to
2 come into the situation unprepared without having
3 done appropriate review with your experts.

4 What time can you communicate with the
5 Rate Bureau regarding availability of the report?
6 Or I'm sorry. I shouldn't call it a report. The
7 updated pre-filed testimony.

8 MR. FRIEDMAN: Like I said, I've been
9 promised it at 8:00 and then I'll need to review
10 it. I would hope to discuss and review it with him
11 by midnight. But I'm -- was up pretty late last
12 night. And also, he's an older gentlemen and I
13 don't know if he'll be up by midnight to continue
14 talking with me. I don't know what to say. But, I
15 mean, I'll endeavor to get them a copy of it by
16 midnight.

17 HEARING OFFICER FUNDERBURK: Okay. Let
18 me know when a -- or let Ms. Pearce know so she can
19 let me know when a copy has been provided to the
20 Rate Bureau. I'll look to hear from the Rate
21 Bureau in the morning what your expected timeline
22 is.

23 Do you have an objection to remote
24 testimony from Mr. Schwartz?

25 MR. SPIVEY: One of the -- one of the

1 things I would like to discuss, and we can do it
2 offline, is just what the -- what that's going to
3 look like. So if we can talk about that as well,
4 but --

5 HEARING OFFICER FUNDERBURK: And I'm
6 sorry. You can step down, Ms. Cavanaugh. You're
7 excused.

8 MR. SPIVEY: The other thing before we
9 get away from it too much, if what you receive or
10 what you get from Mr. Schwartz, I'm understanding
11 it's going to be redlined.

12 MR. FRIEDMAN: Yes.

13 MR. SPIVEY: We are not going to have to
14 look for the changes.

15 MR. FRIEDMAN: Nope. I've told him
16 expressly, every single thing redlined.

17 MR. SPIVEY: Well, just for the record,
18 we've all been up late a lot of times lately. The
19 the Rate Bureau has been bringing a lot of people
20 in here with the expectation of being able to get
21 this case moved along and put on some evidence,
22 rebuttal evidence this week. And I'd very much
23 like us to be able to do that. Getting this by
24 midnight tonight is really going to put a crimp in
25 figuring out how -- what we can accomplish

1 tomorrow.

2 MR. FRIEDMAN: Can I make a suggestion?
3 I would certainly not object if y'all want to begin
4 with your --

5 MR. SPIVEY: We can't put on a rebuttal
6 until you close your case. I mean, that's just a
7 practical reality.

8 HEARING OFFICER FUNDERBURK: Just
9 procedurally, they -- you need to close your case
10 so they can start the rebuttal. And then
11 practically, it becomes a problem --

12 MR. FRIEDMAN: I understand.

13 HEARING OFFICER FUNDERBURK: -- under
14 the rules of procedure needing to finish.

15 All right. I'll ask you to hold the day
16 tomorrow and hopefully we can return. I'll look to
17 hear from Ms. Pearce when she's informed that a
18 copy of the corrected pre-filed testimony for
19 Mr. Schwartz has gone to the Rate Bureau.

20 MR. BEVERLY: And exhibit -- and
21 exhibits.

22 MR. FRIEDMAN: Yes, everything that was
23 contained in his report. There's certainly going
24 to be some things, like his CV, he's not changing.
25 But, I mean, if you just want -- it's up to you.

1 You can get a whole new copy of the stuff,
2 including the stuff he hasn't changed or just the
3 things he has changed, whichever you prefer.

4 HEARING OFFICER FUNDERBURK: I'm going
5 to tell you it's probably easier for me to look at
6 something as a whole in redlines and not have to
7 slip sheet anything.

8 MR. FRIEDMAN: Okay.

9 HEARING OFFICER FUNDERBURK: Would you
10 agree, Mr. Spivey, Mr. Beverly? A copy that I
11 don't have to slip sheet and put stuff in that's a
12 redlined copy so I can see where the changes are
13 would be beneficial for my review. And then also,
14 I think, beneficial for purposes of the -- the
15 record if it has to be compared later.

16 MR. FRIEDMAN: So the only thing I'm
17 thinking through there is, Your Honor, and I'll
18 need to confer with Ms. Pearce about this, is there
19 are -- I'm assuming he has -- I don't know how one
20 goes about changing, for example, some of the
21 Excels and whether you can do that on the PDF that
22 he has that contains the stuff he isn't changing or
23 whether, instead, he sends me what he has changed,
24 I print out a copy of the stuff he hasn't, put them
25 all together and scan it again.

1 HEARING OFFICER FUNDERBURK: I think
2 that's a conversation that can be had offline. If
3 he has Adobe that he should be able to do that. I
4 don't know if he has full Adobe. That's a
5 conversation that can be had offline, I think. But
6 that would be -- that would be my preference.

7 MR. FRIEDMAN: Sure.

8 HEARING OFFICER FUNDERBURK: To know
9 where those changes are and that will speed up, I
10 think, everyone's review process. For me, for the
11 Rate Bureau attorneys and probably for your experts
12 as well.

13 Okay. Anything else before we go off
14 the record? And we can talk about some of the
15 scheduling and some of the logistics regarding
16 Webex and what that looks like off the record. Is
17 there anything else we need to talk about on the
18 record?

19 MR. SPIVEY: Not to my knowledge.

20 MR. FRIEDMAN: No, Your Honor.

21 HEARING OFFICER FUNDERBURK: All right.
22 Then we are off the record at 3:30 p.m.

23 MR. FRIEDMAN: Let me -- I forgot to
24 move to introduce my exhibits. I thought it would
25 be best now, but I can wait till we're through with

1 Mr. Schwartz.

2 HEARING OFFICER FUNDERBURK: All right.

3 We are back on the record at 3:30 p.m.

4 MR. FRIEDMAN: All right. So let me go
5 through those.

6 So I'll -- I'll make clear, Your Honor,
7 we are withdrawing a fair number of things that
8 have already been marked, some of which are loose
9 and some of which are actually in notebooks. We
10 will get -- I don't know if we can promise tonight
11 but we will certainly make sure we get from the
12 clerk so that she doesn't have a cluttered record,
13 if this is how you prefer, we take back the copies
14 of the stuff we are withdrawing. Or would you
15 rather have the withdrawn exhibits still stay in
16 the record?

17 HEARING OFFICER FUNDERBURK: At this
18 point, I am -- I'll consider that later. But at
19 this point, I am not withdrawing those exhibits.
20 We will reserve a determination on that. They were
21 introduced into the record and they are what they
22 are. They were part of the preliminary discussion.
23 I will leave open the issue of whether or not I'm
24 going to allow withdrawal of exhibits.

25 MR. FRIEDMAN: Okay. Then DOI at 1

1 through 9, I understand that the Rate Bureau has no
2 objections to those going in.

3 HEARING OFFICER FUNDERBURK: Any
4 objection? No objection?

5 MR. BEVERLY: No objection, Your Honor.

6 HEARING OFFICER FUNDERBURK: All right.
7 DOI Exhibits 1 through 9 are admitted into the
8 record.

9 (Exhibits 1 through 9 admitted into
10 evidence.)

11 Let me just go through and -- I've kept
12 a list. Let me mark them off of my list.

13 All right. Next?

14 MR. FRIEDMAN: DOI 10, we are proposing
15 to withdraw. And my understanding -- and correct
16 me if I'm wrong -- is that the Rate Bureau did not
17 have any objections to us withdrawing it.

18 HEARING OFFICER FUNDERBURK: And was it
19 ever referenced or introduced? I don't see a
20 reference to it in my notes on exhibits.

21 MR. BEVERLY: It was not admitted, Your
22 Honor.

23 MR. FRIEDMAN: No, Your Honor.

24 HEARING OFFICER FUNDERBURK: And it was
25 also not referenced in any of the discussions as

1 far as I can tell. Thank you.

2 Exhibit 10 is -- is not admitted into
3 the record. We will pull it from our materials.

4 MR. FRIEDMAN: Okay. And I understood
5 from our conversation just a moment ago that the
6 DOI -- y'all do not have an objection to DOI 11
7 going in?

8 HEARING OFFICER FUNDERBURK: Please make
9 sure you're speaking into the microphone.

10 MR. SPIVEY: It was admitted this
11 afternoon.

12 HEARING OFFICER FUNDERBURK: Yeah.
13 Exhibit 11 has already been admitted.

14 MR. FRIEDMAN: Okay. Then as to DOI 12,
15 which are the selected ASOPs, I'm unclear right now
16 whether the Bureau will object to those. I will
17 say that I think that's absolutely something The
18 Court can take judicial notice of.

19 MR. BEVERLY: Your Honor, the only
20 concern was that there's a wealth of ASOPs that
21 were not referenced in any witness testimony. And
22 so, we'll certainly yield to The Court on whether
23 it's appropriate to admit them as a composite
24 exhibit or identify the ones that were actually
25 used.

1 MR. FRIEDMAN: I think it's -- I mean,
2 whether or not they are in the record, they are a
3 thing that -- they are the legal, ethical things
4 binding the actuaries of the U.S. and all the ones
5 who've testified here that's something that's
6 available on the internet publically and could be
7 taken as such. But, I mean, if there are ones in
8 there that we didn't refer to -- I think there was
9 one instance where I referred to one and
10 Mr. Anderson corrected me as to why it wasn't
11 relevant, a particular ASOP, so...

12 HEARING OFFICER FUNDERBURK: The -- the
13 ASOPs as submitted may be helpful in forming my
14 review and opinion as to the obligations of
15 actuaries. I'm inclined to admit them.

16 Does the Rate Bureau have any concerns
17 about whether or not those are the actual ASOPs,
18 that they're current or anything of that nature?

19 MR. SPIVEY: I don't think we have any
20 concern about that. I would observe that this is
21 not a complete set of the ASOPs. It's -- it's
22 selected ASOPs --

23 HEARING OFFICER FUNDERBURK: Okay.

24 MR. SPIVEY: -- and they're not in
25 numerical order.

1 HEARING OFFICER FUNDERBURK: Numerical
2 order. I'm sorry.

3 MR. FRIEDMAN: Yeah. And I think we've
4 made that clear from the start. I certainly have
5 no objection if the Rate Bureau wants to enter into
6 the record or simply direct The Court's attention
7 in its draft order to other ASOPs that might be
8 helpful for the Court.

9 HEARING OFFICER FUNDERBURK: I'm going
10 to ask you to -- and it it doesn't need to be in
11 the next few days, because obviously, we have some
12 other bigger issues we need to deal with with
13 getting your case, you know, getting things closed.
14 I'm going to ask you to review and determine which
15 ASOPs you did actually reference in your case and
16 we will -- we will admit those. Since it's not a
17 complete set, I'm just going to admit the ones that
18 were actually referenced and discussed. If it was
19 a full set, I might feel a little bit differently.
20 But given what it is, I'll just admit the ones that
21 were referenced. I'm going to ask you to come back
22 at some point and clarify which ones those were.

23 MR. FRIEDMAN: Then we are
24 withdrawing -- and I understand there's no
25 objection to withdrawing -- DOI 13 and 14.

1 HEARING OFFICER FUNDERBURK: And those
2 were not referenced or discussed in any of your
3 witnesses' testimonies?

4 MR. SPIVEY: Which ones?

5 HEARING OFFICER FUNDERBURK: 13 and 14.

6 MR. SPIVEY: 14's been discussed at
7 great length.

8 HEARING OFFICER FUNDERBURK: Yeah. I've
9 got a notation that Exhibit 14 --

10 MR. FRIEDMAN: Yes, that's what I -- did
11 I not -- yeah, we move to introduce that. I'm
12 sorry. That's my mistake.

13 HEARING OFFICER FUNDERBURK: I do not
14 have a notation that it was admitted. I just have
15 a notation that it was discussed.

16 MR. BEVERLY: Agreed. Unless it was
17 this morning when I wasn't here, it's not been
18 admitted.

19 MR. FRIEDMAN: It was discussed. It was
20 discussed yesterday. I can put Ms. -- I mean,
21 Ms. Cavanaugh can --

22 HEARING OFFICER FUNDERBURK: It was --
23 it was discussed early on in the testimony as well
24 based on where I have it in my notes.

25 Are you moving to admit Exhibit 14?

1 MR. FRIEDMAN: I move to admit Exhibit
2 14.

3 HEARING OFFICER FUNDERBURK: Any
4 objection?

5 MR. BEVERLY: No, Your Honor.

6 HEARING OFFICER FUNDERBURK: Exhibit 14
7 is admitted.

8 (Exhibit 14 admitted into evidence.)

9 MR. FRIEDMAN: The next one is DOI 15,
10 which is the 2020 Homeowners Settlement Agreement
11 and Consent Order. And I'll just note my
12 understanding of the Rate Bureau's concern about
13 this is simply that it be construed to suggest in
14 some way that they agreed that their indicated rate
15 was somehow incorrect and that they agree that the
16 legal rate was what we settled for, or the
17 sufficient rate, perhaps.

18 HEARING OFFICER FUNDERBURK: Was Exhibit
19 15 referenced by a witness or discussed or
20 authenticated by a witness?

21 MR. FRIEDMAN: Yes.

22 HEARING OFFICER FUNDERBURK: Which
23 witness was that?

24 MR. FRIEDMAN: I'd have to go back and
25 look, Your Honor.

1 HEARING OFFICER FUNDERBURK: I'm just --
2 I'm not seeing 15 in my notes. I do recall a
3 reference to the prior agreements, but I don't have
4 it listed as a -- as an exhibit.

5 Does the Rate Bureau have an objection
6 to admitting 15?

7 MR. BEVERLY: No, Your Honor. As long
8 as for proper purpose and I have confirmed with
9 counsel that there is no intent to offer it for --
10 to refer to it, excuse me, for any improper
11 purpose. So no -- no objection.

12 HEARING OFFICER FUNDERBURK: Is it
13 correct that the parties are not intending it to
14 have precedential value but more so just a
15 reference value?

16 MR. FRIEDMAN: The -- the only argument
17 I intend to make about it, Your Honor, is simply
18 that, whether they agree to it or not, that was the
19 the legal rate that was in effect.

20 HEARING OFFICER FUNDERBURK: Exhibit 15
21 is admitted for that limited purpose.

22 (Exhibit 15 admitted into evidence.)

23 MR. SPIVEY: And I would think the
24 appropriate way to deal with that is it reflects
25 the legal rate. There's no whether we agree to it

1 or not. I mean, it's -- it's a settled rate.

2 MR. FRIEDMAN: I don't plan to argue
3 otherwi se.

4 HEARING OFFICER FUNDERBURK: It's
5 admitted for that purpose. Your next exhibit?

6 MR. FRIEDMAN: DOI 16 and 17, we are
7 with drawing. And I don't believe the Rate Bureau
8 has any concern about with drawing those.

9 HEARING OFFICER FUNDERBURK: Okay. And
10 I do not see those referenced in my notes. Were
11 those referenced by any witnesses?

12 MR. BEVERLY: No, Your Honor.

13 HEARING OFFICER FUNDERBURK: 16 and 17
14 with drawn.

15 All right. Your next exhibit?

16 MR. FRIEDMAN: My understanding is that
17 there are no objections to DOI 18.

18 HEARING OFFICER FUNDERBURK: Now, DOI
19 18, was that also labeled as Rate Bureau 14? I
20 have some notes that there was -- there was some
21 confusion about the -- the labelling of it. It was
22 from 2014.

23 MR. BEVERLY: That would not have been
24 one of our exhibit s.

25 HEARING OFFICER FUNDERBURK: Wasn't one

1 of yours. I think it may have previously been
2 something that -- I'd have to go back and look at
3 it, but I'm just clarifying some of the other
4 references that were on it in my notes.

5 Any objection to Exhibit 18?

6 MR. BEVERLY: No, Your Honor.

7 HEARING OFFICER FUNDERBURK: Exhibit 18
8 is so admitted.

9 (Exhibit 18 admitted into evidence.)

10 MR. FRIEDMAN: And then, my also -- my
11 understandings also were that there were no
12 objections to DOI 19 through 25.

13 HEARING OFFICER FUNDERBURK: Okay.
14 Exhibit 25 was previously referenced. I don't have
15 notations regarding 19 through 24.

16 Are there any objections to admitting
17 Exhibits 19 through 25?

18 MR. BEVERLY: No, Your Honor.

19 HEARING OFFICER FUNDERBURK: Okay. Just
20 make my notations.

21 MR. FRIEDMAN: And most of those, Your
22 Honor, are the 2024 homeowners filing which has
23 been referenced in -- at various times, perhaps
24 indirectly, throughout the testimony.

25 HEARING OFFICER FUNDERBURK: All right.

1 Exhibits 19 through 25 are admitted into the
2 record.

3 (Exhibits 19 through 25 admitted into
4 evidence.)

5 Your next exhibit, Mr. Friedman.

6 MR. FRIEDMAN: We are proposing -- and I
7 don't know that there's any objection -- to
8 withdrawing Exhibits 26 through 31.

9 HEARING OFFICER FUNDERBURK: Withdrawing
10 Exhibits 26 through 31?

11 MR. FRIEDMAN: Yes.

12 HEARING OFFICER FUNDERBURK: I'd have to
13 pull up -- I've just got a notation that 26 and 27
14 were handouts. What were those?

15 MS. WHARRY: This was 26, Your Honor.

16 HEARING OFFICER FUNDERBURK: Did your
17 witnesses testify to the contents or reference the
18 contents of those?

19 MR. FRIEDMAN: I do not believe so, Your
20 Honor. Which one did you say you thought had been
21 referenced, Your Honor?

22 HEARING OFFICER FUNDERBURK: I've got
23 notations that I was at least handed 26 and 27. 26
24 was the use of catastrophe model outputs.

25 MR. FRIEDMAN: We definitely -- we did

1 not testify about those.

2 HEARING OFFICER FUNDERBURK: Okay. Any
3 objection to withdrawing 26?

4 MR. BEVERLY: No, Your Honor.

5 HEARING OFFICER FUNDERBURK: Any
6 objection to withdrawing 27?

7 MR. BEVERLY: No, Your Honor.

8 HEARING OFFICER FUNDERBURK: All right.
9 Exhibits 26 and 27 are not admitted into the record
10 and are withdrawn from our -- our record.

11 MR. FRIEDMAN: And then 28 through 31, I
12 don't believe were referenced either.

13 HEARING OFFICER FUNDERBURK: Are you
14 moving to admit those?

15 MR. FRIEDMAN: No, I'm moving to
16 withdraw those.

17 HEARING OFFICER FUNDERBURK: Okay. And
18 you said 28 through --

19 MR. FRIEDMAN: 31.

20 HEARING OFFICER FUNDERBURK: And those
21 were not referenced at all?

22 MR. FRIEDMAN: I don't have any notes of
23 it. I mean, if I recall, they were all things that
24 I had originally though might be relevant, but
25 ultimately were covered in other testimony.

1 HEARING OFFICER FUNDERBURK: Okay. And
2 I don't have reference to them in my notations.

3 Any concerns or objections to
4 withdrawing 28 through 31?

5 MR. BEVERLY: May we have one moment,
6 Your Honor, quickly?

7 HEARING OFFICER FUNDERBURK: Yes.

8 MR. BEVERLY: No objection, Your Honor.

9 HEARING OFFICER FUNDERBURK: All right.
10 Exhibits 28 through 31 are with- -- are not
11 admitted and will be withdrawn from the documents
12 previously submitted for -- for the record.

13 MR. FRIEDMAN: And just though I'd
14 clarify, Your Honor. When you allow them to be
15 withdrawn, do you still want them to remain in the
16 the clerk's copy -- the clerk's --

17 HEARING OFFICER FUNDERBURK: If they're
18 going to be with- -- if they're not admitted into
19 our file, they're not part of our record on appeal
20 and should not be in our record.

21 MR. FRIEDMAN: Okay. It's my
22 understanding, last we spoke, that there were some
23 concerns by the Rate Bureau about DOI Exhibits 32
24 through 35. These were -- these were excerpts from
25 the 2014, 2017, 2018 and 2020 homeowners filings.

1 What those excerpts were were simply showing the
2 difference between the indicated rate versus the
3 filed rate.

4 I did ask Ms. Biliouris about those
5 during -- when I called her on direct. And she
6 acknowledged that that -- those were what they
7 were. I think they're public records in any case,
8 but -- for the DOI's public records, for that
9 matter. But if there are still objections to them,
10 I'm happy to --

11 HEARING OFFICER FUNDERBURK: Do you have
12 an objection to admission of those documents?

13 MR. BEVERLY: Not for proper purpose,
14 Your Honor, which I understand there's no --

15 MR. FRIEDMAN: It is for proper purpose.

16 MR. BEVERLY: -- that that reflects the
17 the level of the filing but not the -- in any way
18 mitigates the Rate Bureau's determined indication.

19 MR. FRIEDMAN: Yes. I don't plan to
20 argue that your indication was somehow incorrect.
21 I can tell you, I mean, just simply, I want it to
22 just, for one sentence, say, in those past filings,
23 they -- filed rate were less than the indicated
24 rates. And in this one, they've not opted to ask
25 for a filed rate that's less than the indicated

1 rate.

2 MR. BEVERLY: No objection for that
3 purpose, Your Honor.

4 HEARING OFFICER FUNDERBURK: Exhibits
5 32, 33, 34, 35 -- and 30 -- I'm sorry -- and 35 are
6 admitted, subject to the limitations discussed as
7 to what those documents will be utilized for.
8 Their reference will be limited to that purpose.

9 Next?

10 MR. FRIEDMAN: 36, we want to withdraw.
11 And I think --

12 HEARING OFFICER FUNDERBURK: And I
13 believe that one's already been returned to you.

14 MR. FRIEDMAN: Okay. 37 has already
15 been admitted.

16 HEARING OFFICER FUNDERBURK: Correct.

17 MR. FRIEDMAN: 38, if it hasn't been
18 returned to us, we want to withdraw that.

19 HEARING OFFICER FUNDERBURK: Was 38
20 referenced by any of your witnesses or discussed?
21 I'm not seeing 38 in my notes.

22 MR. FRIEDMAN: I don't believe so, Your
23 Honor.

24 HEARING OFFICER FUNDERBURK: Any
25 objection from the Rate Bureau?

1 MR. BEVERLY: No, Your Honor.

2 HEARING OFFICER FUNDERBURK: Okay.

3 MR. FRIEDMAN: Then --

4 HEARING OFFICER FUNDERBURK: 38 is
5 withdrawn from our record and not admitted.

6 MR. FRIEDMAN: DOI 39 and DOI 40, my
7 understanding is that there's no objection to those
8 being entered.

9 MR. BEVERLY: No objection, Your Honor.

10 HEARING OFFICER FUNDERBURK: Okay. And
11 were they previously referenced by any of your
12 witnesses, Mr. Friedman?

13 MR. FRIEDMAN: Yes. They were by
14 Mr. Schwartz.

15 HEARING OFFICER FUNDERBURK: You said
16 that was 39 and 40?

17 MR. FRIEDMAN: Yes.

18 HEARING OFFICER FUNDERBURK: Okay. I
19 see a reference to 40. Just let me look for my
20 notations on 39.

21 Exhibit 40 is admitted.

22 (Exhibit 40 admitted into evidence.)

23 HEARING OFFICER FUNDERBURK: I may have
24 missed it in my notes. I do not see a reference to
25 39. But you've indicated the Rate Bureau does not

1 have an objection to the admission of 39?

2 MR. BEVERLY: That's correct, Your
3 Honor.

4 HEARING OFFICER FUNDERBURK: Exhibit 39
5 is admitted.

6 (Exhibit 39 admitted into evidence.)

7 MR. FRIEDMAN: 41 has already been
8 admitted, Your Honor. 42, if it hasn't been
9 withdrawn yet, we are asking to withdraw that.

10 HEARING OFFICER FUNDERBURK: And was 42
11 referenced by any of your witnesses or discussed in
12 your case?

13 MR. FRIEDMAN: I don't have any notes of
14 that, Your Honor.

15 HEARING OFFICER FUNDERBURK: I'm sorry.
16 What?

17 MR. FRIEDMAN: I don't have any notes of
18 that, no.

19 HEARING OFFICER FUNDERBURK: Any
20 objection to withdrawing 42 from the record?

21 MR. BEVERLY: No, Your Honor.

22 HEARING OFFICER FUNDERBURK: Exhibit 42
23 is withdrawn, not admitted into the record.

24 MR. FRIEDMAN: 43, 43A and 43B, I
25 understand, have already been admitted.

1 HEARING OFFICER FUNDERBURK: They have
2 been admitted. Correct.

3 MR. FRIEDMAN: 44, I believe, has been
4 admitted. 45 has been admitted.

5 HEARING OFFICER FUNDERBURK: Let me
6 double check on 44.

7 Yes. 44 and 45 have previously been
8 admitted.

9 MR. FRIEDMAN: And the same goes, I
10 believe, for 46 through 48.

11 HEARING OFFICER FUNDERBURK: I do -- you
12 said it's your understanding -- yes. Okay. 46 has
13 previously been admitted. 47 was previously
14 admitted. 48 was previously admitted.

15 MR. FRIEDMAN: We are asking to withdraw
16 49 and 50.

17 HEARING OFFICER FUNDERBURK: You said 49
18 and 50?

19 MR. FRIEDMAN: Yes.

20 HEARING OFFICER FUNDERBURK: And were
21 they prior -- at any time, were they referenced by
22 your witnesses or discussed during your case?

23 MR. FRIEDMAN: No, I can absolutely say
24 they weren't.

25 HEARING OFFICER FUNDERBURK: Okay. Any

1 objection from the Rate Bureau?

2 MR. BEVERLY: No, Your Honor.

3 HEARING OFFICER FUNDERBURK: Okay.

4 Exhibits 49 and 50 are not admitted and will be
5 withdrawn from our record.

6 MR. FRIEDMAN: 51 has been admitted.

7 52 --

8 HEARING OFFICER FUNDERBURK: I'm sorry.

9 51, that was the table to replace --

10 MR. FRIEDMAN: Yes, that was the RB2,
11 the replace table RB by Ms. Cavanaugh.

12 HEARING OFFICER FUNDERBURK: So are you
13 referencing 51B?

14 MR. FRIEDMAN: Yes.

15 HEARING OFFICER FUNDERBURK: Yeah.

16 50 -- Exhibit -- I'm sorry -- Exhibit 51, I don't
17 have a notation that it was previously admitted.

18 If I've missed the notation, I apologize. Is there
19 any objection to admission of 51?

20 MR. BEVERLY: No, Your Honor.

21 HEARING OFFICER FUNDERBURK: Okay. With
22 no objection, Exhibit 51 is admitted.

23 (Exhibit 51 admitted into evidence.)

24 MR. FRIEDMAN: 52, I will put on through
25 Mr. Schwartz.

1 And then today, 53, 54 and 55 were
2 admitted.

3 HEARING OFFICER FUNDERBURK: Correct.

4 MR. SPIVEY: And what is 52?

5 MR. FRIEDMAN: 52 is literally all of
6 the supplemental PDFs I sent you supporting those
7 specific -- I mean, and I labeled them as discovery
8 responses. If y'all want to agree to those now,
9 that's fine. Or if you'd rather have Mr. Schwartz
10 explain them, that's fine too.

11 MR. BEVERLY: Can we have a quick
12 moment, Your Honor?

13 HEARING OFFICER FUNDERBURK: Sure.

14 And you said that's 52?

15 MR. FRIEDMAN: Yes. And yeah, just so
16 we are clear, that -- so Mister -- as I explained
17 at the start of the day, we've been supplementing
18 backup data and that's the supplemented backup
19 data.

20 MR. BEVERLY: If Your Honor please, no
21 objection to DOI 52, Your Honor.

22 MR. SPIVEY: But we haven't heard him.

23 MR. BEVERLY: Right. Subject to it
24 being authenticated and -- and offered for --

25 HEARING OFFICER FUNDERBURK: Since we

1 don't have it provided to our record yet, correct?

2 MR. SPIVEY: Not marked as an exhibit.

3 HEARING OFFICER FUNDERBURK: It's not
4 marked as an exhibit. It hasn't been handed out.
5 It hasn't been identified.

6 MR. FRIEDMAN: I believe we have copies
7 of it somewhere, but why don't I just put that on
8 then through Mr. Schwartz?

9 HEARING OFFICER FUNDERBURK: Let's --
10 let's wait on that until it's shown to The Court,
11 shown to the -- the witness and -- and brought in.

12 So we can expect to see that when
13 Mr. Schwartz testifies?

14 MR. FRIEDMAN: Yes.

15 HEARING OFFICER FUNDERBURK: One moment,
16 please.

17 Any other exhibits we need to discuss?

18 MR. FRIEDMAN: There will be the
19 supplemented report and then I don't know if there
20 will be any exhibits they'll need to admit on cross
21 of their rebuttal witnesses.

22 HEARING OFFICER FUNDERBURK: That --
23 that will need to be admitted. And I anticipate
24 admitting that as a new exhibit rather than a
25 substitution of the previously provided exhibit.

1 I'll reserve final determination on that. But that
2 would --

3 MR. FRIEDMAN: It would probably be
4 cleaner.

5 HEARING OFFICER FUNDERBURK: Yeah,
6 that's what I -- that's what I anticipate at this
7 point.

8 Is there anything else we need to
9 address before we -- before we recess for the day?

10 MR. SPIVEY: I don't think there's
11 anything we need to do on the record. I think we
12 would like to talk with you about what the --

13 HEARING OFFICER FUNDERBURK: Yes. What
14 a Webex would look like.

15 MR. SPIVEY: -- testimony would look
16 like.

17 HEARING OFFICER FUNDERBURK: All right.

18 MR. FRIEDMAN: And if I -- if I could
19 say one more thing on the record. If, for some
20 reason, I can't finish -- I will stay up as late as
21 necessary and as late particularly as Mr. Schwartz
22 is able to remain up, but if I can't finish
23 reconciling his changes with what he has explained
24 to me so far are just naturally or mathematical
25 effects of what he's already changed by midnight,

1 can I report that I haven't done it by midnight and
2 then first thing, I'll be in in the morning and
3 working to finish that? I don't --

4 HEARING OFFICER FUNDERBURK: I --

5 MR. FRIEDMAN: I'm going to make every
6 effort to --

7 HEARING OFFICER FUNDERBURK: I -- I
8 expect a report when -- when you have one. Move
9 as -- as fast as you can to get us an accurate,
10 updated pre-filed testimony in redline format.

11 If you're unable to do that by the end
12 of today, then notify us what's going on. But we
13 need -- the information is necessary to be able to
14 proceed with closing your case in chief and then
15 allowing the Rate Bureau to prepare for their
16 rebuttal so that we can -- we can -- we can, at
17 some point, conclude this hearing.

18 MR. FRIEDMAN: I absolutely understand.
19 I'm very, very sorry about these, at least from my
20 ends, unanticipated changes. I am going to -- when
21 I receive the redlined copy and talk with him, I'm
22 going to personally sit down with the hard copy and
23 make sure that he and I have discussed everything
24 that he has included -- hasn't included and the
25 extra redlines we haven't discussed.

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HEARING OFFICER FUNDERBURK: Okay. Is there anything else we need to address before we go off the record?

MR. FRIEDMAN: Not from our end, Your Honor.

MR. SPIVEY: No, Your Honor.

HEARING OFFICER FUNDERBURK: Then we are off the record at 4:00 p.m. Thank you.

(Hearing concluded at 3:59 p.m.)

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CERTIFICATE OF REPORTER

STATE OF NORTH CAROLINA)
COUNTY OF WAKE)

I, Christina Kornikh, the officer before whom the foregoing hearing was taken, do hereby certify that the witnesses whose testimony appears in the foregoing hearing was duly sworn; that the testimony of said witness was taken by me to the best of my ability and thereafter reduced to typewriting under my direction; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken, and further that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.

This the 4th day of December, 2024.

Christina Kornikh

CHRISTINA KORNIKH

Notary Public #201515300080



