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**Motorcycle Policy Forms and Rates for 2005**  
**Docket No. R2004-10**

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**Final Order**

On June 24, 2004, the Commissioner of Insurance issued a Notice of Hearing establishing three separate dockets to consider specific aspects of the proceeding to fix-and-establish private passenger automobile insurance rates for 2005. Docket No. R2004-10 specifically relates to Motorcycle Rates and Policy Forms. Docket No. R2000-12 considers underwriting profits, and Docket No. R2004-13 considers insurer's losses and expenses. The Main Rate filing this year includes a section on motorcycle rates.

Docket No. R2004-10 addresses a filing submitted by the Automobile Insurers Bureau ("AIB") on May 28, 2004, in response to a directive of the Commissioner of Insurance ("Commissioner") in her *Decision on Private Passenger Automobile Insurance Rates for 2004* (the "*Decision on 2004 Rates*"). Her directive instructed the AIB to evaluate various aspects of the rating methodology for motorcycles, including classifications for experienced and inexperienced operators, application of a multi-vehicle discount, territorial rating, and rating motorcycles on factors other than engine capacity. Parties to the proceeding were the AIB, the State Rating Bureau ("SRB") and the Attorney General ("AG"). On July 14, the Massachusetts Motorcycle Association ("MMA") petitioned to intervene in this proceeding.

The AIB characterized its filing in this docket as "methodological," stating that it was not filing final rates to apply to motorcycles in 2005, but addressing the methodology that should be used to calculate those rates. It noted that the methodology would be updated with appropriate ratemaking data as that data became available; 2003 data on motorcycles was

expected to be assembled in October 2004. The AIB filing, in summary, proposed changes to the methodology for developing rate indications, including a credibility standard, changes to the calculation of manual rates to include territorial and operator class rating, changes to the statistical plan and addition of a maximum substitute transportation rate.

A public comment hearing, at which several MMA members made statements, and a prehearing conference took place on July 22. At the prehearing conference, the MMA withdrew its petition to intervene. Cross-examination of the AIB's witness took place on August 3. Neither the SRB nor the AG submitted an advisory filing. A conference took place on August 11 for the purpose of setting a briefing schedule. Paul Cote, Government Relations representative for the MMA, participated in that conference by telephone. The AIB stated that it did not intend to file a brief in this matter, and urged the Commissioner to approve its filing. The SRB and the AG had made no decision on briefing, but suggested that before making such a decision the disputed issues should be identified. Mr. Cote indicated that the MMA had objections to the AIB's filings, but noted that the MMA was "not necessarily" a party to the proceeding. He stated that the MMA would like an opportunity to confer with the AG and the SRB about submission of its objections. The presiding officer ordered that any issues that a party intended to brief be identified by August 17 and ordered briefs to be submitted by August 19.

On August 18, a second conference took place; Mr. Cote again participated by telephone. Mr. Cote stated that the MMA had informed the SRB about its objections to the AIB's filings, but that the SRB had indicated that it would not submit them on behalf of the MMA. The presiding officer<sup>1</sup> observed that the MMA had issues that it would like the hearing officers to address, and proposed that the MMA be allowed to submit a statement of those issues and a submission in the nature of a brief *amicus curiae*. The AIB objected to allowing the MMA, as a non-party, to submit statements; the SRB and the AG did not object to submission of filings in an *amicus* capacity.

The MMA filed a statement on August 18 identifying four matters at issue in this docket and its position with regard to each of those issues. It also argued that the Commissioner should reject the AIB's filing, asserting that the filing "is incomplete, inadequate, and lacks significant new evidence." On August 20, the MMA filed a brief *amicus curiae* seeking the rejection of the

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<sup>1</sup> Susan G. Anderson, Esq., subsequently resigned from her position at the Division of Insurance and I continued as sole presiding officer in this proceeding.

AIB's filing and orders that would: 1) require the AIB to submit an additional filing including additional historical loss data and expenses as they relate only to motorcycles; 2) require the AIB to investigate whether competition for motorcycle insurance is adequate, so that motorcycles could be removed from the procedure for fixing and establishing private passenger automobile rates; 3) suspend the rates used by insurers and schedule a separate hearing under G.L. c. 175E, §8 about them and 4) refund excess profits to current policyholders pursuant to G.L. c. 175, §113B.

On September 2, 2004, an order (the "September 2 Order") was issued in this proceeding. It addressed the four issues identified by the MMA in its August 18 statement: 1) classification of operators as experienced or inexperienced; 2) vehicle classification by engine size; 3) territorial rating of motorcycles and 4) availability of a multi-vehicle discount. The September 2 Order noted that these issues are independent from those to be considered in the Main Rate portion of these proceedings, including losses, expenses, and other factors that enter into rate calculations.

The September 2 Order fully decided the substantive issues raised by the MMA in its submissions. The MMA withdrew its petition to intervene on July 22 and, for the reasons set out in my order of even date, its renewed petition to intervene and supplemental petition to intervene are not allowed. Moreover, even if the MMA had been allowed to intervene, I note that it has shown no basis for the relief that it requests.

The recommendations and methodologies in the AIB's May 28 filing on Motorcycle Rates for 2005 not previously approved are hereby approved and shall be used to fix-and-establish motorcycle rates for 2005 in conjunction with the methodologies for developing motorcycle rates approved in the *Decision on Private Passenger Automobile Insurance Rates for 2005*, issued on December 15, 2004.

December 31, 2004

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Stephen M. Sumner  
Presiding Officer

Affirmed:

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Julianne M. Bowler  
Commissioner of Insurance