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**Rate Filing of the Workers' Compensation Rating and Inspection Bureau
for a Revision of the Rules and Rates Applicable to Risks Classified
in the Admiralty and Federal Employers Liability Act Classes.
Docket No. R2015-01**

Decision and Order

I. Introduction and Procedural History

On December 3, 2015, the Workers' Compensation Rating and Inspection Bureau of Massachusetts ("WCRIB"), on behalf of its members, submitted a filing for a revision of the rules and rates applicable to workers' compensation insurance covering risks classified in the Admiralty and Federal Employer Liability Act ("FELA") classes, to be effective July 1, 2016 ("the Filing"). The Filing was supplemented on December 8, 2015 by written testimony from the WCRIB's witness, Daniel Crowley. The Commissioner of Insurance ("Commissioner") designated Jean F. Farrington, Esq. and Stephen M. Sumner, Esq. as presiding officers on this matter. A notice of hearing was issued on December 21, 2015, scheduling a public comment hearing for January 20, 2016. On January 5, 2016, the Attorney General ("AG") filed a notice of intent to appear and participate.

Representatives of the State Rating Bureau in the Division of Insurance ("SRB") and the WCRIB spoke at the public comment hearing. Because the parties were exploring settlement, no cross-examination was scheduled at that time. On February 26, 2016, the parties submitted a stipulation (the "Stipulation") resolving matters addressed in the Filing.

II. Statutory Framework

Massachusetts General Laws, Chapter 152, §53A (“§53A”) sets out the statutory requirements for obtaining approval of rates for Massachusetts workers’ compensation insurance. Subsection (1) requires any insurance company writing workers’ compensation insurance in the Commonwealth to file its risk classifications and premiums with the Commissioner, either directly or through a rating organization authorized to act on its behalf. The Commissioner thereafter conducts a hearing to determine whether the classifications and rates are not excessive, inadequate, or unfairly discriminatory for the risks to which they effectively apply, and fall within a range of reasonableness.

In addition to these general requirements, §53A (12) specifically states that the Commissioner shall not approve classifications or rates that provide for any of the following: 1) dividends, unabsorbed premium deposits, savings or other payments allowed or returned by the insurer to policyholders, members, subscribers, or stockholders; 2) expenses that exceed the filing insurer’s expense needs; and 3) commission allowances that are not demonstrated to be reasonable and to reflect the actual cost to the agent or broker of services they provide.

III. Background

According to the WCRIB, this rate filing is intended to modernize the existing Admiralty and FELA classes and to make them consistent with their counterparts in other jurisdictions nationwide. It points out that the workers’ compensation coverages for those classes are the same in Massachusetts and nationally, but that Massachusetts, since 1951, has not revised the rules and regulations defining and otherwise applicable to those classes. Twice since then, in 1975 and 1996, the National Council for Compensation Insurance (“NCCI”) issued revised rules that, in general, reduce the number of Admiralty classifications and modernize the phraseology describing those classes. Because of the limited number of Massachusetts exposures in the Admiralty and FELA classes, the WCRIB did not adopt the NCCI revisions. This filing is the WCRIB’s response to inquiries from its member carriers about adopting national rules that will conform Massachusetts practices to those in effect in other jurisdictions in which they write Admiralty and FELA risks.

IV. The Filing

The WCRIB’s filing memorandum identified eight proposed changes to the workers’ compensation programs for Admiralty and FELA classes. Three of those eight changes conform

the Massachusetts classifications and classification descriptions (“phraseologies”) to those proposed by the NCCI in 1975 and 1996, which were adopted in most jurisdictions nationwide. Two changes relate to the standard limits of coverage available and the procedure for calculating premiums for increased limits. The standard liability limits for Admiralty and FELA classes have been revised to a flat \$10,000 per occurrence amount rather than a \$5,000 per person/\$10,000 per occurrence model. The WCRIB proposes to raise, from \$25,000 to \$100,000, the amount of optional increased limits coverage that policyholders in the residual market may purchase under Employers Liability Insurance for Admiralty Law. The procedure for calculating the premium for policyholders applying for higher limits of liability has been simplified. Three other proposed changes sought to phase out over a ten year period the existing \$300 per week payroll cap for risks in the Admiralty and FELA classes, to amend the Massachusetts Statistical Plan for Workers' Compensation Insurance, and to limit FELA coverage to the voluntary market.¹

V. The Stipulation

The Stipulation states that no party will object to or appeal from an order approving the Stipulation on condition that the WCRIB withdraws 1) the proposed changes to the Statistical Plan that were documented in Exhibit 14 to its Filing; 2) the proposal to eliminate the \$300 per week payroll cap over time, documented in Exhibit 11 to its Filing; and 3) the proposal to limit FELA coverage to the voluntary market for workers’ compensation insurance. The WCRIB will revise the manual pages submitted as Exhibit 12 to its Filing in accordance with the Stipulation.

We find that the Stipulation submitted by the Parties will provide for classifications or premiums that are “not excessive, inadequate, or unfairly discriminatory for the risks to which they respectively apply, and fall within a range of reasonableness.” Therefore, we approve the Stipulation, and herein ORDER that, in accordance with the terms of the Stipulation, the proposed revisions to the classifications, rating methods and rates for risks in the Admiralty and FELA classifications, as set out in the December 3, 2015 Filing, shall apply to new and renewal policies effective on and after July 1, 2016. It is further ORDERED that no changes shall be made to the current payroll caps for Admiralty and FELA classifications, that the Filing shall not initiate changes to the Massachusetts Workers' Compensation Statistical Plan, and that FELA

¹ The proposed changes to the statistical plan encompass a variety of reporting requirements including, but not limited to, changing the statistical codes for reporting Admiralty or FELA increased limits.

coverage shall not be limited to the voluntary market for workers' compensation coverage but shall be available to risks insured through the Massachusetts Workers' Compensation Assigned Risk Pool. Any electronic rate filing on the Admiralty and FELA rates submitted by the WCRIB shall be revised to conform to the terms of the Stipulation.

ENTERED this 23rd day of March 2016.

Stephen M. Sumner
Presiding Officer

Jean F. Farrington
Presiding Officer

AFFIRMED:

Daniel R. Judson
Commissioner of Insurance

March 23, 2016