

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
AT RICHMOND, JULY 12, 2024

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APPLICATION OF

NATIONAL COUNCIL ON COMPENSATION
INSURANCE, INC.

CASE NO. INS-2024-00074

For revisions of advisory loss costs
and assigned risk workers' compensation
insurance rates

ORDER DOCKETING CASE

Pursuant to § 38.2-1912.1 of the Code of Virginia ("Code"), no prospective loss costs or supplementary rate information for workers' compensation and employers' liability insurance, as defined by § 38.2-119 of the Code, shall be applied or used in the Commonwealth of Virginia until it has been approved by the State Corporation Commission ("Commission"). Pursuant to § 38.2-2006 of the Code, with limited exception, no filing of rates for insurance written through the Virginia Workers' Compensation Insurance Plan may be used until it has been approved by the Commission.

The Commission's Final Order in Case Number INS-2023-00049 ordered, among other things, the National Council on Compensation Insurance, Inc. ("NCCI"), the Commission's Bureau of Insurance ("Bureau"), the Office of the Attorney General's Division of Consumer Counsel, the Iron Workers Employers Association, and the Washington Construction Employers Association (collectively, "Interested Participants") to recommend jointly to the Commission a procedural schedule for any subsequent proceeding to revise voluntary market advisory loss

costs and/or assigned risk workers' compensation insurance rates.¹ On or about June 10, 2024, NCCI, by counsel, filed on behalf of the Interested Participants a proposed procedural schedule for the anticipated proceeding with the Commission's Clerk's Office.²

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the proposed procedural schedule should be adopted and that members of the public be allowed to submit comment in this matter. Accordingly, IT IS ORDERED THAT:

(1) This matter is docketed and assigned Case No. INS-2024-00074, and a proceeding shall be instituted pursuant to 5 VAC 5-20-80 A of the Commission's Rules of Practice and Procedure, 5 VAC 5-20-10 *et seq.*

(2) All pleadings, briefs, or other documents required to be served in this matter shall be submitted electronically to the extent authorized by 5 VAC 5-20-150, *Copies and format*, of the Rules of Practice. Confidential and Extraordinarily Sensitive Information shall not be submitted electronically and should comply with 5 VAC 5-20-170, *Confidential information*, of the Rules of Practice. Any person seeking to hand deliver and physically file or submit any pleading or other document shall contact the Clerk's Office Document Control Center at (804) 371-9838 to arrange the delivery.

(3) Pursuant to 5 VAC 5-20-140, *Filing and service*, of the Commission's Rules of Practice, the Commission directs that that all filings made in this matter be served on the parties and Staff, and that service on parties and the Staff in this matter shall be accomplished by

¹ *Application of National Council on Compensation Insurance, Inc., For revisions of advisory loss costs and assigned risk workers' compensation insurance rates*, Case No. INS-2023-00049, Doc. Con. Cen. No. 231200257, Final Order (Dec. 20, 2023) at 5.

² *See* Letter dated June 10, 2024, Case No. INS-2023-00049, Doc. Con. Cen. No. 240620043. The Commission further understands that on June 12, 2024, the Bureau provided NCCI its pre-filed discovery requests seeking certain information from NCCI.

electronic means. Concerning Confidential or Extraordinarily Sensitive Information, parties and the Staff are instructed to work together to agree upon the manner in which documents containing such information shall be served upon one another, to the extent practicable, in an electronically protected manner, even if such information is unable to be filed in the Office of the Clerk, so that no party or the Staff is impeded from preparing its case.

(4) A public evidentiary hearing on the Application shall be convened at 10:00 a.m. on October 29, 2024, or at the conclusion of the public witness portion of the hearing, whichever is later, in the Commission's Courtroom, Second Floor, located at 1300 East Main Street, Tyler Building, Richmond, Virginia 23219.

(5) On or before July 19, 2024, NCCI shall file its proposed advisory loss costs, assigned risk rates, rating values and supportive direct testimony and exhibits ("Application"). In addition to the electronic service required by Paragraph (3), one hard copy of the Application shall be delivered to the Office of the Attorney General on the same date. Additionally, on or before July 19, 2024, NCCI shall provide its responses to the Bureau's June 12, 2024 pre-filing discovery requests directly to the Bureau. Further discovery, if conducted, shall be in accordance with Paragraph (12).

(6) On or before October 18, 2024, any interested person may submit comments on the Application by following the instructions found on the Commission's website: scc.virginia.gov/casecomments/Submit-Public-Comments. Those unable, as a practical matter, to submit comments electronically may file such comments by U.S. mail to the Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. All comments shall refer to Case No. INS-2024-00074.

(7) On or before August 16, 2024, any interested person or entity wishing to participate as a respondent in this proceeding may do so by filing a notice of participation with the Clerk of the Commission at scc.virginia.gov/clk/efiling, as provided by Rule 5 VAC 5-20-80 B. Those unable, as a practical matter, to file a notice of participation electronically may submit such notice by U.S. mail to the Clerk of the Commission at the address listed in Ordering Paragraph (6).

(8) Within three (3) business days of receipt of a notice of participation as a respondent, NCCI shall serve a copy of its Application and supporting materials on the respondent, unless these have already been provided to the respondent.

(9) On or before September 13, 2024, the Bureau, and each respondent may file with the Clerk of the Commission, at scc.virginia.gov/clk/efiling, any testimony and exhibits by which the Bureau or the respondent expects to establish its case. Any respondent unable, as a practical matter, to file testimony and exhibits electronically may file such by U.S. mail to the Clerk of the Commission at the address in Ordering Paragraph (6).

(10) On or before October 4, 2024, NCCI shall file with the Clerk of the Commission, if needed, any rebuttal testimony and exhibits it expects to offer at the hearing.

(11) The Commission's Bureau forthwith shall provide a copy of this Order to all persons listed in the Bureau of Insurance's records as interested persons for purposes of workers' compensation matters, composed of entities and individuals that have previously expressed an interest in recent NCCI rate proceedings.

(12) The Commission's Rule of Practice 5 VAC 5-20-260, *Interrogatories to parties or requests for production of documents and things*, shall apply except as modified herein. In lieu of the service requirements of 5 VAC 5-20-260 of the Rules of Practice, on the day that copies

are filed with the Clerk of the Commission, a copy of the interrogatory or request for production shall be served electronically on the party to whom the interrogatory or request for production is directed or the assigned Staff attorney, if the interrogatory or request for production is directed to Staff.³

(13) This matter is continued.

A COPY hereof shall be sent electronically by the Clerk of the Commission to:

Charles H. Tenser, Counsel for NCCI, ctenser@mac.com, 2120 Galloway Terrace, Midlothian, Virginia 23113; C. Meade Browder, Jr., Senior Assistant Attorney General, mbrowder@oag.state.va.us, and John E. Farmer, Jr., Assistant Attorney General, jfarmer@oag.state.va.us, Office of the Attorney General, Division of Consumer Counsel, 202 N. 9th Street, 8th Floor, Richmond, Virginia 23219; and a copy shall be delivered to the Commission's Office of General Counsel and the Bureau of Insurance in care of Deputy Commissioner Zuhairah Tillinghast.

³ The assigned Staff attorney is identified on the Commission's website, scc.virginia.gov/pages/Case-Information, by clicking "Docket Search," then clicking "Search by Case Information," and entering the case number, INS-2024-00074 in the appropriate box.