

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

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APPLICATION OF

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NATIONAL COUNCIL ON COMPENSATION
INSURANCE, INC.

CASE NO. INS-2024-00074

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

HEARING EXAMINER'S RULING REQUIRING NOTICE

July 31, 2024

Pursuant to § 38.2-1912.1 of the Code of Virginia ("Code"), no prospective loss costs or supplementary rate information for workers' compensation insurance, as defined by Code § 38.2-119, shall be applied or used in the Commonwealth of Virginia until it has been approved by the State Corporation Commission ("Commission"). Pursuant to Code § 38.2-2006, 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 No. INS-2023-00049 directed, among other things, that 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") 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 a procedural schedule on behalf of the Interested Participants.

On July 12, 2024, the Commission entered an Order Docketing Case ("Procedural Order") in this matter. On July 18, 2024, NCCI filed a Motion for Modification of Order Docketing Case. On July 19, 2024, the Commission entered an Order ("Amending Order") that modified certain dates established by the Procedural Order and assigned a Hearing Examiner to any prehearing matters in this proceeding, including directing required notice(s).

Among other things, the Procedural Order, as modified by the Amending Order, directed NCCI to file its proposed advisory loss costs and assigned risk rates for workers' compensation policies on or before July 26, 2024; established August 23, 2024, as the deadline for filing notices of participation as a respondent in this case; established September 20, 2024, as the date for the Bureau and respondents to file witness testimony and exhibits on NCCI's proposal;

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, 2023 S.C.C. Ann. Rep. 81, Final Order (Dec. 20, 2023).

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provided for any interested person to file with the Clerk of the Commission written comments on NCCI's proposal by October 18, 2024; and scheduled a hearing to convene on October 29, 2024.

On July 26, 2024, NCCI filed with the Commission on behalf of its members, which are insurance companies licensed to write workers' compensation insurance in the Commonwealth, advisory loss costs that NCCI's members may use, together with their own expenses and profit and contingency factors, in determining the members' rates for policies written in the voluntary market and revised rates and rating values for assigned risk policies ("Application"). Together with its advisory loss costs and assigned risk rate filings, NCCI submitted testimony and exhibits on July 26, 2024, in support of its proposed advisory loss costs, assigned risk rates, and rating values. NCCI has proposed to make the requested changes for policies effective on and after April 1, 2025, on all new and renewal business.

Upon consideration of this matter, I find that notice of NCCI's Application and the procedural schedule should be provided as set forth herein. Accordingly,

IT IS DIRECTED THAT:

(1) NCCI shall cause the following notice to be published in a newspaper of general circulation on one occasion, not later than the week beginning August 11, 2024, in each of the following cities: Richmond, Norfolk, Newport News, Roanoke, Winchester, Lynchburg, Danville, Bristol, Fredericksburg, and Alexandria. On or before the date of the scheduled hearing, proof of such publication shall be submitted to the Clerk of the Commission, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218.

**NOTICE OF PROPOSED CHANGES TO WORKERS'
COMPENSATION INSURANCE RATES
CASE NO. INS-2024-00074**

The National Council on Compensation Insurance, Inc. ("NCCI"), on behalf of its member insurers, has applied to the State Corporation Commission ("SCC") for approval to change voluntary market advisory loss costs and assigned risk market rates and rating values for new and renewal workers' compensation insurance policies becoming effective on and after April 1, 2025.

NCCI proposes advisory loss costs that its members may use along with their own expenses and profit and contingency factors in establishing rates for policies written in the voluntary market. The proposal would change the overall average pure premium level for the voluntary market as follows:

Industrial classifications:	12.0 % decrease
“F” (Federal) classifications:	4.9 % decrease
Coal classification 1005:	11.1 % decrease
Coal classification 1016:	11.6 % decrease

NCCI proposes the following changes to the overall average rate level for the assigned risk market:

Industrial classifications:	15.8 % decrease
“F” (Federal) classifications:	9.0 % decrease
Coal classification 1005:	13.3 % decrease
Coal classification 1016:	13.9 % decrease

Information filed by NCCI in support of its proposals, including the exact assigned risk rates and advisory loss costs for individual classifications, which will vary by classification and may be higher or lower than the overall changes stated above, may be viewed at scc.virginia.gov/case under Case No. INS-2024-00074.

Interested persons are encouraged to review NCCI’s filing and supporting documents for the details of these and other proposals. TAKE NOTICE that the SCC may approve advisory loss costs and assigned risk rates and rating values different from those proposed by NCCI.

The SCC has instituted an investigation into the changes proposed by NCCI and has set a public hearing thereon in Case No. INS-2024-00074 in its courtroom, Second Floor, Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, at 10 a.m. on October 29, 2024. Any interested person who desires to make a statement at the hearing on his/her own behalf should either (a) appear in the SCC’s courtroom at 9:45 a.m. on October 29, 2024, and contact the SCC’s Bailiff; or (b) sign up to testify telephonically.

On October 29, 2024, at 10 a.m., the SCC will hold a telephonic portion of the hearing for the purpose of receiving the testimony of public witnesses. On or before October 22, 2024, any person desiring to offer telephonic testimony as a public witness shall provide to the SCC (a) your name, and (b) the telephone number that you wish the SCC to call during the hearing to receive your testimony. This information may be provided to the SCC in three ways: (i) by filling out a form on the SCC’s website at scc.virginia.gov/pages/Webcasting; (ii) by completing and emailing the PDF version of this form to SCCInfo@scc.virginia.gov; or (iii) by calling (804) 371-9141. This public witness portion of the hearing will be webcast at scc.virginia.gov/pages/Webcasting.

On October 29, 2024, at 10 a.m., or at the conclusion of the public witness portion of the hearing, whichever is later, in the SCC's courtroom, the SCC will convene a hearing to receive testimony and evidence related to the Application from NCCI, any respondents, and the SCC's Bureau of Insurance.

On or before August 23, 2024, any person or entity who expects to participate in this proceeding as a respondent shall file a notice of participation, in conformity with the SCC's Rules of Practice and Procedure, 5 VAC 5-20-10 *et seq.*, and the SCC's Orders in this case, which may be viewed at scc.virginia.gov/case or may be requested from the Clerk of the SCC, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218. Any notice of participation shall be filed with the Clerk of the SCC, and a copy must be served on NCCI's counsel, Charles H. Tenser, Esquire, 2120 Galloway Terrace, Midlothian, Virginia 23113.

In accordance with the SCC's Orders in this case, on or before September 20, 2024, each respondent shall also file with the Clerk of the SCC the testimony and exhibits by which the respondent expects to establish its case.

All interested persons who desire to comment on NCCI's Application shall file such comments on or before October 18, 2024, with the Clerk of the SCC at the address above or may submit comments electronically by following the instructions at scc.virginia.gov/casecomments/Submit-Public-Comments. All comments shall refer to Case No. INS-2024-00074.

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



D. Mathias Roussy, Jr.
Senior Hearing Examiner

The Clerk of the Commission is requested to send a copy of this Ruling to all persons on the official Service List in this matter. The Service List is available from the Clerk of the State Corporation Commission, c/o Document Control Center, 1300 East Main Street, First Floor, Tyler Building, Richmond, VA 23219.

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

800 - CLERK OF THE
DOCUMENT CONTROL CENTER

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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.