

Amy R. Bach (SBN 142029)
Daniel R. Wade (SBN 296958)
United Policyholders
381 Bush Street 8th Floor
San Francisco, CA 94104
415-393-9990

BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF CALIFORNIA

In the matter of the rates of)	UNITED POLICYHOLDERS
)	PETITION FOR HEARING;
CSAA Insurance Exchange,)	PETITION TO INTERVENE;
File No. 16-934,)	NOTICE OF INTENT TO SEEK
Applicants)	COMPENSATION [Cal Ins. Code;
)	§1861.05(c); 1861.10(a); and C.C.R.,
_____)	tit. 10 §2653.1].

United Policyholders (“UP”) respectfully requests that the Insurance Commissioner schedule a public hearing pursuant to California Insurance Code (hereinafter “Cal. Ins. Code”) §§ 1861.05(c);1861.10(a) and California Code of Regulations (hereinafter “CCR.”), title 10 §2653.1 on the above referenced homeowner’s multi-peril insurance rate application at which time Applicant shall be directed to appear and respond to the issues raised in this petition.

I. THE APPLICATION

1. On or about February 12, 2016, CSAA Insurance Exchange (hereinafter “Applicants” filed application No. 16-934 (Homeowners HO3 Rate Filing/CA HO3 20170101) requesting a rate increase of 4.0% for owner-occupied HO3 insurance policies.

II. THE PETITIONERS

2. United Policyholders (hereinafter “UP”) is a non-profit, 501(c)(3) public benefit corporation, incorporated in California. UP’s mission is “to be a trustworthy and useful information resource and an effective voice for consumers of all types of insurance in all 50

states.”¹ UP does not sell insurance or accept financial contributions from insurance companies. UP gives consumers the straight scoop on insurance matters; guides consumers through the claims process; answers consumer questions; and fights for consumer rights.”² UP’s website is an information clearinghouse for consumers on buying insurance, filing claims, and policyholder legal rights. On May 11, 2015, the Public Advisor granted UP’s Request for Finding of Eligibility to Seek Compensation as a Consumer Intervenor.

3. UP was founded in 1991 after the Oakland-Berkeley Hills Firestorm to assist homeowners with insurance claim issues. Through its specialized knowledge of the insurance claims process and subject matter expertise, UP has been successfully guiding homeowners on the path to disaster recovery for almost 25 years. A diverse range of policyholders throughout California communicate on a regular basis with UP, which allows us to provide important and topical information to courts, legislators, regulators, and commentators, regarding insurance principles and reform proposals that are likely to impact large segments of the public.

4. UP’s work is divided in three programs: *Roadmap to Recovery*TM, which provides tools and resources for solving insurance problems after an accident, loss, illness or other adverse event; *Roadmap to Preparedness*, which promotes disaster preparedness and insurance literacy through outreach and education in partnership with civic, faith based, business and other non-profit associations; and *Advocacy and Action*, which advances pro-consumer laws and public policy related to insurance matters, principally through the submission of *amicus curiae* briefs to

¹ To learn more about UP’s mission, resources, and advocacy work, please visit www.uphelp.org.

² See <http://uphelp.org/about/mission>.

appellate courts which are authored on a *pro bono* basis by experienced insurance attorneys in consultation with UP's in-house attorneys (Amy Bach and Daniel Wade).³

5. The United Policyholders' Board of Directors includes disaster survivors, insurance lawyers, and claim and financial professionals.⁴ It also includes the Executive Director who oversees daily operations and sets policy priorities.⁵ UP's funding comes primarily from individual donors and charitable foundations, businesses, and government agencies. UP is based in San Francisco, California and employs four full-time staff members, including two attorneys. UP works nationally on issues affecting insurance consumers. UP has hired a consulting actuary, Eric Johnson, to assist with the rate analysis described in this petition.

III. EVIDENCE

6. At the requested public hearing, UP will present and elicit evidence that the rates contained within the Application are excessive and/or unfairly discriminatory in violation of Cal. Ins. Code section 1861.05 (a), and, 10 CCR § 2644.1, *et seq.*, for the following reasons:

a. The request for variance 2(A) for quality of service is inappropriate because the Applicants have failed to show that they provide a higher quality of service, that their measures of consumer satisfaction are objective or how much relief from the efficiency standard is appropriate or otherwise authorized by 10 CCR § 2644.12.

b. The request for variance 3 for a leverage factor that deviates from 10 CCR § 2644.4 is inappropriate because Applicants have failed to show that they write at least

³ See, e.g., *amicus curiae* brief supporting Commissioner Dave Jones in *ACIC et al v. Dave Jones*, Case No. B248622, California Court of Appeal, Second Appellate District, Division One, 2014 (available at <http://uphelp.org/association-california-insurance-companies-et-al-v-dave-jones-his-capacity-insurance-commissioner>).

⁴ See <http://uphelp.org/about/board>.

⁵ See <http://uphelp.org/about/staff>.

90% of their direct earned premium in California or that their mix of business presents investment risk different from the risks that are typical of the line as a whole.

c. The request for variance 7(C) is inappropriate because the Applicants have failed to show that there are changes in their reserving ratio or claims closing practices that significantly affect the data. 10 CCR § 2644.21.

d. Applicants' loss trend selection is inappropriate because the Applicants have failed to show that they have selected the most actuarially sound data. 10 CCR § 2644.7.

e. The Applicants' catastrophe adjustment is inappropriate because the Applicants have failed to show that they have enough years of data, that the adjustment reflects any changes between the historical and prospective exposure to catastrophe due to a change in the mix of business, that they have properly applied total insured value trend or that the models they used for fire following earthquake conform to the standards of practices as set forth by the Actuarial Standards Board or that they are based upon the best available scientific information. 10 CCR § 2644.5.

f. The Applicants' efficiency standard is inappropriate because the Applicants have failed to show that they distribute through independent agents. 10 CCR § 2644.12

g. The Applicants' Fire Line rating variable is inappropriate because the Applicants have failed to show that their proposed factors are not unfairly discriminatory or otherwise in violation of Cal. Ins. Code § 1861.05.

7. Based on the foregoing, UP respectfully requests that the Commissioner reject the Application and the 4.0% rate increase requested therein.

8. The violations outlined above in 6(a)-(g) are based upon UP's preliminary analysis of the Application. UP reserves the right to modify, withdraw, and/or enlarge the scope of this petition and any resulting hearing or settlement discussions as information becomes available.

IV. TIMELY PETITION

9. This petition is timely pursuant to Cal. Ins. Code §1861.05(c) and 10 CCR §2646.4(a)(1), because the petition is being filed within 45 days of the public notice date (February 17, 2016). Further, this petition does not involve a rate that has been specifically approved by the Insurance Commissioner within the preceding 12 months.

V. NOTICE OF INTENT TO INTERVENE; SUPPORTING AUTHORITY

10. UP also hereby requests that it be granted leave to intervene in the proceeding on the Applicant's rate application pursuant to Cal. Ins. Code §1861.10, which provides in relevant part, that: "[a]ny person may initiate or intervene in any proceeding permitted or established pursuant to this chapter [Cal. Ins. Code., Ch. 9, Part 2, Div. 1] ... and enforce any provision of the article." This proceeding is a rate filing application submitted pursuant to Cal. Ins. Code §1861.05, making it a proceeding that is both "permitted" and "established" pursuant to the aforementioned.

11. The right of UP to intervene is also authorized pursuant to 10 C.C.R. §2661.1 *et seq*, most relevant being §2661.2, which states, in relevant part, that "[a]ny person shall be permitted to intervene in any proceeding on any rate application ... subject to [Cal. Ins. Code., Ch. 9, Part 2, Div. 1] if the issues to be raised by the intervenor or participant are relevant to the issues of the proceeding." Section III (above) of this petition sets forth issues directly related to the compliance of the rate application with California laws and regulations and relevant to the issues of the proceeding. As a consumer intervenor, UP will add legal and actuarial expertise and an will represent the more than X [Applicant] policyholders in the state of California.

VI. VERIFICATION OF PARTICIPATION

12. UP will submit testimony from legal and actuarial experts (*e.g.*, Eric Johnson) and fully participate in all aspects of the proceeding. Per the requirements of 10 C.C.R. §2661.3, UP verifies that it will be able to attend and participate in this proceeding without unreasonably delaying this proceeding or any other proceedings before the Insurance Commissioner.

VII. PETITIONER'S INTEREST

13. UP's interest in the above captioned proceeding is to ensure that consumers who purchase homeowners insurance policies from Applicant are charged rates that comply with California law, specifically with Cal. Ins. Code. §1861.05, which prohibits rates that are "...excessive, inadequate, unfairly discriminatory or otherwise in violation of this chapter." Further, UP seeks to ensure that the Applicant's rate application complies with California's prior approval rate regulations (10 CCR §2641.1 *et seq.*).

14. UP has a long and distinguished history of assisting California government officials and agencies on insurance matters. UP has testified numerous times before the California Senate and Assembly on insurance matters including availability, affordability, coverage, and claims handling. Most recently UP addressed the issues of earthquake and catastrophic risk insurance availability and affordability, regulation of public insurance adjusters, and uninsured motorist coverage before the Senate Insurance Committee.⁶

15. UP has also been involved in the crafting and implementation of numerous legislative and regulatory initiatives, including: Reforms to Cal. Ins. Code §2071 – Requirements in Case Loss Occurs⁷; Reforms to §790.03 – adoption of Fair Claims Settlement

⁶ UP's governmental advocacy work is catalogued at www.uphelp.org/programs/advocacyandaction.

⁷ "...after a covered loss, the insurer shall provide, free of charge, a complete, current copy of this policy within 30 calendar days of receipt of a request from the insured..."

Practices Act; and AB 2064 – Reforms to earthquake insurance mandatory offer letter.⁸ UP recently assisted the Department and the legislators in evaluating industry proposals relating to insuring emerging technologies and insurance risks (*e.g.*, Transportation Network Carriers and California Earthquake Authority earthquake insurance products and disclosures).⁹

16. UP also works closely with the Department and the Legislature on issues affecting disaster survivors, such as cancellations, non-renewals, and underinsurance.¹⁰ Through the *Roadmap to Recovery* and *Roadmap to Preparedness* programs, UP regularly receives input from policyholders on coverage and claim challenges as well as unjustified rate increases.¹¹

17. UP possesses specialized knowledge and expertise, gained through its decades of consumer-oriented advocacy work. UP has a highly qualified staff and team of consultants who possess the legal, procedural, and actuarial knowledge and expertise necessary to effectively assist the Department as an intervenor. For example, Amy Bach, Esq., UP’s Executive Director, has worked on issues affecting insurance consumers in California since 1988. Ms. Bach was involved in the rulemaking proceedings and implementation of Proposition 103 between 1989-1991 and co-founded UP in 1991. Ms. Bach has been appointed for seven consecutive terms as an official consumer representative to the National Association of Insurance Commissioners where she works closely with the Department of Insurance and Commissioner Jones. Ms. Bach was counsel to a Special Master overseeing consumer complaint handling reforms at the Department of Insurance during the 1990s; served on the Product Enhancement Advisory Board to the California Earthquake Authority from 2006-2008; and was appointed to chair a [California

⁸ *Supra*, note 3.

⁹ See <http://www.uphelp.org/sites/default/files/u3894/AB%202293%20United%20Policyholders.pdf>

¹⁰ See, *e.g.*, *amicus curiae* brief in *ACIC v. Jones*, available at www.uphelp.org/amicus

¹¹ See http://www.uphelp.org/library/resource/survey_results.

Department of Insurance] Consumer Advisory Task Force in 2008. Bach is a renowned speaker on consumer and insurance matters appearing in major news outlets, before professional associations, and testifies regularly in Sacramento. UP's Staff Attorney, Daniel Wade, Esq., is an experienced public interest attorney with special expertise in insurance matters.

VII. INTENT TO SEEK COMPENSATION

18. Pursuant to Cal Ins. Code. §1861.10 and 10 CCR §2661.3, UP intends to seek compensation in Applicant's proceeding. A proposed budget is attached (Exhibit A).

WHEREFORE, UP respectfully requests that the Insurance Commissioner grant this petition for hearing and petition to intervene in Applicant's proceeding.

Dated: February 24, 2015

Submitted Respectfully,

Amy R. Bach, Esq.
Executive Director

Daniel R. Wade, Esq.
Staff Attorney

EXHIBIT A

**UNITED POLICYHOLDERS FINDING OF ELIGIBILITY TO SEEK COMPENSATION
AS A CONSUMER INTERVENOR: PROPOSED PRELIMINARY BUDGET**

1. United Policyholders Attorneys

Amy Bach @ \$575 per hour, 100 hours\$57,500

Confer with outside counsel and outside experts regarding legal and evidentiary issues; participate in discussions with Commissioner and Applicants’ counsel; participate in all phases of proceeding, evidentiary hearing, and preparation of post- hearing briefing.

Daniel Wade (Staff Attorney), \$325 per hour, 200 hours.....\$65,000

To assist Amy Bach with tasks outlined above.

United Policyholders Expenses (Copies, binding, postage, travel).....\$2,000

United Policyholders Subtotal\$124,500

2. Expert Witness – Eric Johnson, Actuary

Eric Johnson @ \$675 per hour, 200 hours\$135,000

Lead actuary to review all discovery documents, prepare rate analysis, participate in meet and confers with the parties as needed; prepare written testimony; testify and assist attorneys in preparation for cross-examination of insurers’ expert witnesses.

Eric Johnson, Actuary Subtotal\$135,000

TOTAL ESTIMATED BUDGET: \$259,500

VERIFICATION

I, Daniel Wade, verify:

1. I am an attorney employed by United Policyholders and a member in good standing of the bar of the State of California. If called as a witness in any proceeding, I could and would testify competently to the facts stated herein.

2. I personally prepared the attached pleading entitled "United Policyholders Petition for Hearing, Petition to Intervene, and Notice of Intent to Seek Compensation." All of the facts alleged herein are true of my own personal knowledge or I believe them to be true following my own personal inquiry and investigation.

3. In accordance with C.C.R., tit. 10, §2661.3, UP attaches a proposed budget for purposes of intervenor compensation in this proceeding as Exhibit A.

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct.

Executed February 24, 2015 at San Francisco, California.

_____/s/_____

Daniel Wade, Esq.

PROOF OF SERVICE

I, declare that I am a resident of the State of California, member of the State Bar of California, over the age of eighteen years, and not a party to the within action. My business address is 381 Bush Street, 8th Floor, San Francisco, California 94104. On February 24, 2016, I served the following document(s) by email on the parties listed below:

UNITED POLICYHOLDERS PETITION FOR HEARING, PETITION TO INTERVENE, AND NOTICE OF INTENT TO SEEK COMPENSATION

Daniel Goodell
Rate Enforcement Bureau Chief
California Department of Insurance
45 Fremont Street, 21st Floor
San Francisco, CA 94105
Tel. No.: (415) 538-4111
Daniel.Goodell@insurance.ca.gov

Joel Laucher
Deputy Commissioner
Rate Regulation Branch
California Department of Insurance
45 Fremont Street, 21st Floor
San Francisco, CA 94105
Tel. No.: (415) 538-4381
Joel.Laucher@insurance.ca.gov

Edward Wu
Staff Counsel and Public Advisor
Office of the Public Advisor
California Department of Insurance
300 South Spring Street, 12th Floor Los Angeles, CA 90013
Tel. No.: (213) 346-6635
edward.wu@insurance.ca.gov

Christian Myers, FCAS
Pricing Executive and Senior Actuarial Manager
CSAA Insurance Group
3055 Oak Road
Walnut Creek, CA 94597
925-279-5253
Christian.Myers@csaa.com