



NATALIE A. HUBLEY  
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COMMONWEALTH AUTOMOBILE REINSURERS

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## RECORDS OF MEETING

### COMMERCIAL PROGRAM OVERSIGHT COMMITTEE – JANUARY 22, 2019

#### Members Present

Mr. William Cahill, Jr. – Chair  
Mr. Charles Boynton, III  
Mr. Peter Chung  
Mr. Brian Hayes  
Mr. John Olivieri, Jr.

The Hanover Insurance Company  
Boynton Insurance Agency, Inc.  
The Norfolk & Dedham Group  
Quincy Mutual Group  
J.K. Olivieri Insurance Agency, Inc.

Substituted for:  
N/A

Not in Attendance:  
N/A

#### 18.01 Records of Previous Meeting

The Committee unanimously voted to approve the Records of the Commercial Program Oversight Committee meeting of December 18, 2018. The Records have been distributed and are on file.

#### 18.04 Commercial Program Oversight

Mr. John Metcalfe advised that based upon input received at the last meeting, staff has prepared updates to the list of commercial residual market data and profile reports that CAR will provide to Servicing Carriers. The data reports will reflect residual market experience for the 2018 policy year, include historical data that should be referenced by carriers to comment on their experiences, challenges and successes during the review year. Additionally, to assist in the Committee's review of the Annual Reports, staff has redesigned the 2018 Annual Report template as suggested by the Committee so as to be more effective in collecting and summarizing the responses received.

Mr. Metcalfe stated that based upon the anticipated schedule, CAR expects to distribute data to the four Servicing Carriers in April, with the 2018 Annual Reports due to CAR in mid-May. The Committee should anticipate reviewing the reports in early June with a recommendation presented to the Governing Committee at its June 2019 meeting. He further noted that any information received by the four Servicing Carriers as part of their Annual Report will be summarized by staff and shared with the Committee in an organized manner, using the newly formatted template.

At the last meeting, Mr. Steven Torres, CAR counsel, was requested to further review the sharing and distribution of the information provided on the Annual Reports, in accordance with the Open Meeting Law. He noted that under the Open Meeting Law, any reports circulated and deliberated upon by a CAR committee must be shared more broadly and made available to the general public.

It was the Committee's consensus that the Annual Report template as provided, with minor updates as suggested by Mr. Peter Chung, should be distributed in accordance with the proposed 2018 Annual Report schedule.

#### **18.06 Request for Reimbursement of Extraordinary Expenses – Arbella Protection Insurance Company**

At its last meeting, the Committee continued discussion relative to Arbella's request for reimbursement of extraordinary expenses and reviewed additional information submitted by Arbella relative to the derivation of employee expenses used in their calculations. Some committee members felt that the submitted information addressed the Committee's concerns, while others indicated that while Arbella had clarified the methodology used to determine the expense dollars, they were unclear as to whether those numbers were appropriate. The Committee questioned whether its charge was to determine the reasonableness of the dollar amounts requested by Arbella or to understand and verify Arbella's methodology for determining its requested reimbursement amount. Mr. Benjamin Hincks, CAR counsel, stated that in reviewing Arbella's request, the language in the Manual of Administrative Procedures contemplates that the burden is on the Servicing Carrier to produce sufficient evidence that it has incurred an extraordinary expense. He therefore suggested that the Committee may want to focus on the evidence Arbella has presented, and work within the framework of the documentation that Arbella has provided, rather than trying to validate hourly numbers.

Ms. Roberta Fitzpatrick, representing Arbella Insurance Company, addressed the Committee and noted that no Rule guidance was in place when Arbella first filed their request for reimbursement in 2017. It was then that CAR committees met to create the current Rules and procedures in this regard. Arbella resubmitted its request under the newly approved guidelines and requirements, but as she had stated at previous meetings, is reserving its right to appeal based upon the Rules in effect when the request for reimbursement was initially filed.

Significant discussion ensued with the Committee noting that when a company is appointed as a Servicing Carrier, an expectation exists that there will be a certain level of expenses associated with servicing commercial residual market business that will be incurred. However, while a Servicing Carrier should anticipate incurring these expenses in addition to the norm in specific situations, the Committee agreed that Arbella's investigation of the Point Insurance Agency was certainly extraordinary in nature, not to be anticipated at the time of the RFP process, and that an objective way to analyze the information presented by Arbella is needed as it may establish a precedent for future reimbursement requests.

Some Committee members suggested that if Arbella is able to determine how much effort it expends on a typical ERP policy and the associated dollar amounts built into its RFP numbers, those dollars could potentially be backed out of its requested expense reimbursement figures, as it would provide the Committee with an idea of the extra expense incurred over and above what should have been anticipated in the RFP process. Mr. Brian Hayes agreed with that approach, stating that Arbella has done a significant amount of work in support of a reasonable approach for estimating its expenses and the Committee should give credence to those numbers.

In response to the Committee's request, Ms. Fitzpatrick agreed to provide the Committee with additional information identifying how much time and dollars Arbella spends on a typical ERP policy in order that the Committee may consider whether those amounts should be backed out of Arbella's extraordinary expenses request. She noted that Arbella may be able to track, at least for operations, the time spent on a typical ERP policy, but she wasn't certain if that information would be available for either underwriting or SIU activities.

The Committee agreed that this information would be helpful for discussion at its next meeting in order to provide the Governing Committee with an informed recommendation.

MARIAN ADGATE  
Corporate Documentation Specialist

Boston, Massachusetts  
February 6, 2019

**ATTACHMENT LISTING**

Docket #CPOC19.02, Exhibit #1

Attendance Listing

