



OFFICE OF PUBLIC INSURANCE COUNSEL

Melissa R. Hamilton, Public Counsel

October 1, 2018

Commissioner Kent Sullivan
Texas Department of Insurance
Chief Clerk Office
333 Guadalupe
MC 113-2A, P.O. Box 149104
Austin, Texas 78714-9104

Dear Commissioner Sullivan:

The Office of Public Insurance Counsel (OPIC) objects to the Texas Windstorm Insurance Association (TWIA) rate filing submitted to the Texas Department of Insurance (TDI) on August 14, 2018, in which the TWIA Board of Directors proposes a 10% rate increase on TWIA policyholders. OPIC's reasons for this objection are set forth below.

Chapter 501 of the Texas Insurance Code (Code) requires OPIC to "represent the interests of insurance consumers in this state," and to "assess the impact of insurance rates . . . on insurance consumers in this state." Insurance Code §§ 501.002; 501.151. The Code further states that OPIC may "intervene . . . on behalf of insurance consumers . . . in matters involving rates." Insurance Code § 501.153(1)(A). OPIC confined our analysis to these statutory parameters. In addition, this analysis only considers the actual rate filing made at this particular time because that is the only matter before the Commissioner. Any future rate increases and the amount of those rate increases are entirely speculative.

OPIC reviewed TWIA's rate filing. We asked TDI and TWIA questions related to the rate filing and considered their responses. OPIC also conducted a legal analysis of the applicable state laws.

Based on TWIA's actuarial indications, discussions during the TWIA actuarial and underwriting committee meeting on July 25, 2018, the rates proposed by the TWIA Board of Directors, and TWIA's responses to our questions, OPIC believes the filed rates are arbitrary. In addition, OPIC questions whether the filed rate change meets the standards set forth in Sections 2210.355 and 2210.453 of the Code.

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OPIC then considered the impact of the proposed 10% rate increase on Texas consumers. Because we represent the interests of all consumers, our analysis included a review of the rate increase's potential impact on not only TWIA policyholders, but also on non-TWIA policyholders. OPIC looked at the implications of the 10% increase on repayment of the outstanding Class 1 bonds, the replenishment of the Catastrophe Reserve Trust Fund (CRTF), any future Public Securities, and any potential insurer assessments for future storms. Insurance Code §§ 2210.071-2210.0742.

TWIA indicates that they do not intend to replenish the CRTF until the outstanding Class 1 bonds have been repaid. OPIC asked TWIA how much a 10% rate increase would accelerate the repayment of the outstanding bonds versus their current rate level. According to TWIA, the outstanding bonds would be paid off only nine months sooner. More specifically, a 10% rate increase results in the repayment of the Class 1 bonds in the Second Quarter of 2021, instead of in the First Quarter of 2022. Considering the timing of the Class 1 bond repayment, OPIC weighed the impact of a 10% rate increase on consumers who are TWIA policyholders and consumers who are not TWIA policyholders.

We concluded there are scenarios where disapproval of this proposed rate increase could impact rates or surcharges for non-TWIA policyholders at some point in the future. OPIC has serious concerns about these, and any, potential rate increases or surcharges on Texas consumers. These scenarios, however, are not certain and depend upon several contingencies occurring in concert.

In contrast, the impact of a 10% increase on TWIA policyholders is based on current and known facts. If TDI approves this filing, TWIA policyholders will see their rates increase by 10% during the next year. This increase takes place a little over a year after Hurricane Harvey hit the Texas Gulf Coast in August of 2017. Hurricane Harvey caused \$125 billion in damage.¹ It is the costliest storm in Texas history and the second costliest storm in United States history.²

A majority of the Tier 1 Coastal Counties with TWIA policyholders were directly impacted by Hurricane Harvey. These Texans are still recovering from the effects of the storm. For example, in Port Aransas, "the city's occupancy tax revenues, which are collected from the rental of rooms from hotels, condominiums and other short-term lodging, were down 50% through June" compared to Fiscal Year 2017.³ In fact, as of the date of this letter, Governor Abbott has extended the disaster declaration for counties affected by Hurricane Harvey.

OPIC recognizes the difficulty of balancing all consumer interests with regard to TWIA rates. At this time and for this particular rate filing, however, OPIC objects and respectfully requests that the Commissioner of Insurance disapprove the August 14, 2018, TWIA rate filing.

¹ *Costliest U.S. Tropical Cyclones Tables Updated*, National Oceanic and Atmospheric Administration's National Hurricane Center, (Jan. 26, 2018), www.nhc.noaa.gov/news/UpdatedCostliest.pdf.

² *Id.*; *Hurricane Costs*, National Oceanic and Atmospheric Administration's Office for Coastal Management, (Oct. 1, 2018), <https://coast.noaa.gov/states/fast-facts/hurricane-costs.html>.

³ David Tarrant, *Fighting back from ruin: A year later, Port Aransas still faces impact of Hurricane Harvey*, Dallas News.com, Aug. 20, 2018, available at www.dallasnews.com/news/texas/2018/08/20/fighting-back-ruin-year-later-port-aransas-still-faces-impact-hurricane-harvey.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in cursive script that reads "Melissa R. Hamilton". The signature is written in black ink and is positioned above the printed name.

Melissa R. Hamilton
Public Counsel⁴

⁴ In the effort of full disclosure, OPIC states that the Public Counsel's parents own property covered by a TWIA policy. The Public Counsel does not hold an interest in that property.