

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE

In the Matter of Proposed Rules
Governing Filing Fees for
Forms and Rates

STATEMENT OF NEED
AND REASONABLENESS

STATEMENT OF AUTHORITY

Minnesota Statute 60A.14, Subd. 1(c)(14) mandates that the Commissioner of Commerce adopt rules to define filings that are subject to fees. The forms and rates which are subject to these rules are those described in chapters 61A, 62A, 62B, 62C, 62E, 70A and 79 of Minnesota statutes.

The principal purpose of charging filing fees is to generate sufficient funding to cover the estimated costs involved in developing and maintaining a computerized record keeping system for form and rate filings. These rules are structured to produce that required funding.

A secondary purpose of the rules is to provide a greater incentive for filing organizations to reduce the number of filings made and to be more accurate in the data submitted. This will reduce their costs and also reduce the Department of Commerce's workload.

The rules represent a balanced approach in defining those filings that are subject to a fee. Insufficient revenue would result in failure to meet the objective of covering costs associated with the computerized record keeping system. Revenue in excess of the amount needed may cause unnecessary retaliatory problems for domestic companies licensed in other states. These rules are intended to produce only enough revenue to covers the costs of the recordkeeping system.

FACTS ESTABLISHING REASONABLENESS

Part 2605.0100 Scope of Authority. This part sets forth the authority and scope of the rules. All organizations which are legally required to make insurance rate or form filings with the Commissioner of Commerce are subject to these rules.

Part 2605.0200 Filing Fees for Casualty & Property Insurance. This part, including subparts A. through F., applies to only casualty and property insurance.

Subpart A. provides that a single fee applies to all rates and rules pertaining to the same line of insurance and which are included in the same filing. Many rate schedules include hundreds of individual rates. It would impose an unreasonable financial burden upon filers

to apply the \$10 fee to each rate or each rule. It would also produce revenue in excess of that needed for the record keeping system.

Subpart B. provides that a single fee applies to a filing which includes many different forms or endorsements which pertain to the same line of insurance. It is not unusual for a single filing to include dozens of such forms and endorsements. It is less time consuming for analysts to review them as a unit, than to have each form or endorsement submitted as a separate filing. Applying a single fee to the entire filing will encourage organizations to file all related forms and endorsements together thus reducing their costs.

Subpart C. provides for separate fees to be charged for each company within a group, even though the filings are identical. The Department must keep separate files and records for each company. Thus, separate fees are appropriate to the work generated.

Subpart D. provides for payment of a filing fee whenever an insurer deviates from a rate service or data service organization filing that would otherwise apply. Although handling such filings is generally less time consuming for analysts, separate processing and record keeping is necessary. A fee for doing this is reasonable under these circumstances.

Subpart E. makes it clear that forms and rates filed by the Minnesota Automobile Insurance Plan and the Minnesota Property Insurance Placement Facility are subject to filing fees. Because of the quasi-public nature of these entities, there may have been some question in this regard which this subpart deals with.

Subpart F. describes the specific kinds of workers compensation filings that are subject to a filing fee. This will avoid uncertainties that may otherwise arise.

Part 2605.0300 Life & Health Insurance. This part, including subparts A. through F., applies to only life and health insurance.

Subparts A. through D. describe the kinds of life and health insurance filings that are subject to filing fees. The rationale for these rules is essentially the same as for casualty and property insurance. The reason they are listed as separate subparts is that the descriptions used differ somewhat from casualty and property insurance.

Subpart E. makes it clear that forms and rates filed by the Minnesota Comprehensive Health Association are subject to filing fees. The quasi-public nature of the Association might raise a question as to the applicability of these rules, which this subpart deals with.

Subpart F. is needed because of a special procedure followed by the life and health policy analysis section of the Department of Commerce. Reopening a previously closed file is not unusual and does involve nearly as much work by an analyst, as did the original filing. Thus, charging an additional filing fee for the reopened filing is appropriate.

Part 2605.0400 Provisions Applicable to All Policy Form and Rate Filings. This part, including subparts A. through L., applies to all filings which are subject to these rules.

Subpart A. deals with multi-purpose forms. A single filing fee will apply even though a form or endorsement can be used with more than one kind of insurance. This is reasonable because no additional time or processing is required for such forms or endorsements.

Subpart B. requires that filing fees be paid in situations where a law is amended or a new law triggers the filing. Even though such filings are not voluntary on the part of the filer, there is no less handling required of the Department of Commerce. Also, a significant number of filings are triggered by law changes. Waiving filing fees in such cases would materially reduce revenue without reducing the work load and related expense.

Subpart C. deals with minor or non-substantial policy or rate changes that must be filed. Even though such filings require less analysis, complete processing is required. Also, by charging a filing fee, organizations will have incentive to be more careful to avoid printing or editorial errors when making an original filing.

Subpart D. waives the fee on filings that withdraw forms or rates. There is little or no evaluation required by analysts on such filings. The absence of a fee will encourage filers to withdraw forms or rates that are no longer being used, which is desirable from the point of view of the Department of Commerce.

Subpart E. waives the filing fee for exhibits and supporting data. This material generally accompanies an original filing, which generates a filing fee. Thus, a separate fee would not be appropriate.

Subpart F. provides for those situations where analysis of a filing triggers correspondence that may result in an amended filing at our request. Since we receive a filing fee for the original filing, an additional fee is not necessary.

Subpart G. makes filing fees non-refundable. Since the fees are relatively small, returning them would not be economically feasible. In most cases the cost of making a refund would exceed the amount of

the filing fee. Thus, retaining these fees is a reasonable approach and encourages the filers to make sure their filings are appropriate and necessary before submitting them.

Subpart H. recognizes that there will likely be unusual situations not specifically covered by these rules. This provision allows the Commissioner to make a decision without requiring formal proceedings which would be unduly cumbersome and expensive.

Part 2605.0500 Examples of Fees Payable. This part, consisting of subparts A. through D., presents four illustrations of how the rules will apply to typical filings.

SMALL BUSINESS CONSIDERATIONS

Minnesota Statutes § 14.115 requires that the impact of proposed rules on small business be considered in the development of those rules. Specifically, the statute, at subdivision 2, requires that less stringent compliance standards and reporting requirements for small businesses be considered. The statute also requires that methods designed to reduce the impact of the rules on small businesses be incorporated into the rules if they are feasible and consistent with the statutory objectives associated with the rules.

Despite the lack of comments received by the Department when opinions were requested in that regard, the Department considered whether the provisions of these rules might be modified to accommodate the interests of small businesses.

If a small business is authorized to insure it would be affected by the rule's requirements. Very few, if any, insurance companies would qualify as a small business. Consideration was given to possible ways in which the requirements might be relaxed for small businesses or amended to reduce any burden on small businesses. It was concluded, however, that the requirements of the rule are necessary to the attainment of the statutory objective upon which the rules are based. The statutory objective is to assure that the cost of the filing of forms be paid for by the companies making the filing.

The statutory purpose could not be met if the cost to small businesses were reduced unless other businesses were charged more or other revenue sources substituted for these fees. It was felt that small businesses would make fewer filings than larger ones and thus have less total cost. The cost to them would, however, be proportionate to the use of the Department's resources.

Each of the methods described at Minnesota Statutes § 14.115, subdivision 2 (a) - (e) was considered in proposing the rule. The provisions contained in the proposed rule are believed to be necessary to achieve the legislative purposes.