



STATE OF CONNECTICUT
INSURANCE DEPARTMENT

FTR

February 23, 2015

Dear Chairmen Crisco and Megna, Ranking Members and Members of the Insurance Committee members,

This letter is submitted in response to inquiries made of the Connecticut Insurance Department by the Chairmen of the Insurance Committee at the January 29th Public Hearing regarding **SB-17 AN ACT CONCERNING WORKERS' COMPENSATION AND THE SOLAR ENERGY INDUSTRY**.

During the testimony provided by the solar industry to the Committee comparisons were made between the relatively low workers compensation rates for roofers in Massachusetts in comparison to Connecticut rates for roofers. In addition it was brought to the Committee's attention that MA Solar contractors were leveraging those low workers compensation rates to underbidding CT solar contractors. The Department has looked into this matter and brings the committee the following information.

First, pertaining to MA contractors doing work in CT, CT labor and Workers' Comp laws require that if an employer in MA hires any employees to work outside Massachusetts or begin work or operations in any state other than Massachusetts, said employer must obtain any insurance coverage required by that state's laws in which the work is being conducted. If contractors are coming into CT from MA to do solar installations with what Connecticut laws and regulations would deem insufficient, they are doing so outside the confines of the law. Consequently, this may be more accurately identified as an enforcement issue with cross border coverage rather than about the actual rate charged for Workers' Comp.

With regard to the contrast in rates, it is important to make sure that when comparing one state's rates to another that one also considers the benefits and the profitability of the class or classes. Connecticut workers' compensation rates are higher than Massachusetts in large part due to the fact that Connecticut affords greater workers' compensation benefits than Massachusetts. In addition, the actual benefits payable are influenced by factors such as: The length of disability, compensation included in determining the wage, allowable attorney fees, medical fee schedules, etc. For example, MA limits Temporary Total Disability (TTD) benefits to a maximum of 156 weeks while those same benefits in Connecticut are paid for the duration of the disability. In addition, those eligible for TTD in Connecticut receive 75% of their average weekly wage. In contrast, TTD benefits in Massachusetts amount to 60% of a recipient's average weekly wage. To summarize, Connecticut workers' compensation benefits are significantly richer than workers' compensation benefits found in Massachusetts, as such, the cost of insurance in Connecticut greater by comparison.

It should also be pointed out that not all solar installers are insured through the states assigned risk market. Many solar installers do secure coverage in the voluntary market. Currently, rates for loss cost associated for a similar risk in the voluntary market start at \$39.04 and would be subject to the company scheduled rating debits or credits which will ultimately drive the cost up or down based on positive or negative experience. The solar contractor that testified is currently in the assigned risk plan his company is relatively newer and lacks sufficient experience for many voluntary market companies to feel comfortable enough to write the risk. Once said contractor develops more experience, assuming it is positive, he will be able to obtain quotes in the voluntary market as many solar contractors already do.

As for the rates and overhead/expense, below please find comparisons of the CT vs. MA rates and the overhead/expenses of the classes between the two states. It should be noted that MA Workers' Comp rate process is an extremely politicized subject with the AG's office often acting as an intervenor on A.L.L. rate filings submitted and as a result the rates for this specific class have not been increased in over 5 years. We believe that the rates used in Massachusetts are inadequate and artificially low causing those classes to continue to lose significant dollars over time.

Rates comparison:

CT Roofing Assigned Risk rate: \$67.45 Class code 5551
CT Voluntary loss costs rate: 39.04

MA Roofing rate: \$31.79 Class code 5545
MA Roofing rate: \$15.85 Class code 5547*

* This rate and code is only used for flat roofs.

Roofing class loss performance CT vs. MA based on current state rates:

MA code 5545: Payroll for 5 years: \$555,047
Losses for 5 years: \$20,771,446

MA code 5547: Payroll for 5 years: \$2,314,588
Losses for 5 years: \$29,407,448

CT code 5551: Payroll for 5 years: \$130,235,938
Losses for 5 years: \$46,115,449

As for establishing a separate class code for Solar installers we have reached out to NCCI and were advised that NCCI looked at Solar Panel/System Installation last year based on inquiries regarding the classification of this industry. NCCI indicated that there does not appear to be enough employers dedicated to the installation of solar system installation to develop enough data for an actuarially credible classification. (A couple of bad losses could skew the rate.) Also,

it is important to point out that the installations of solar systems are not performed by a homogeneous group of employers. There appears to be specialist trades that get certified for solar system installation and they may perform all or some of the installation and contract other portions of the installation. These operations are performed in addition to their primary operation as an electrician, roofer, etc.

As noted above, when evaluating the need to establish a new classification for an industry, one of the areas considered is whether the classification is expected to be actuarially credible based on existing data. Even with the projected growth of the industry, this is still an area concern, especially when noting the BLS (Bureau of Labor Statistics) number of 4,800 jobs in 2012. Also, there appears to be some overlap within the trades regarding this type of work (i.e. electricians getting 'solar installation certified', etc.). We believe that more loss data is needed in order to create a solar installation classification.

For the reasons cited above, NCCI applied and continues to apply the multiple contracting classification treatment for solar system installation.

However, the Department recently met with representatives from the solar industry that testified before the committee and we agreed to work with them on this matter and see if there is a case to be made for a separate solar installation class code for CT for those homogeneous groups, should it be determined they are out there. As a result, the Department does not support this legislation since we believe it would be better to create this classification through NCCI rather than through statutes since this will give all parties—the industry, the State of Connecticut and NCCI—the ability to adjust or modify the class code if circumstances change rather than through a legislative fix. However, we would be happy to work with those that provided testimony on this issue.

We hope that we have been able to provide sufficient information regarding this issue for the committee, however, if any additional information is needed please do not hesitate to contact us.

Sincerely,



Anne Melissa Dowling
Acting Commissioner