



A Review and Follow-Up of the Windstorm Public Hearing
regarding Monroe County's High Risk Account Rate Filings
with the Office of Insurance Regulation
November 10, 2009

The Office of Insurance Regulation (OIR) windstorm high risk account public hearing was held at the state capitol on Tuesday, November 10, 2009 at 9 o'clock a.m. Due to Hurricane Ida, the OIR had considered postponing the meeting but did not when FIRM and Monroe County confirmed that we would be in attendance on November 10th.

The OIR panel consisted of Deputy P&C Insurance Commissioner Belinda Miller as Chair; Richard Koon, Director of P&C Product Review; Robert Lee, Actuary; Ken Ritzenthaler, Actuary; and Steve Parton, General Counsel.

Citizens Property Insurance Corporation (CPIC) was represented by Brian Donovan, Director of Actuarial Services; Susanne Murphy, Executive Vice President; Paul Palumbo, Senior Vice President of Underwriting; and Paul Erickson, Consulting Actuary with ISO. CPIC had additional staff present.

Monroe County was represented by Timothy Volpe, Attorney, and Allan Schwartz, Actuary and FIRM's presenters Colleen Repetto, Executive Director; Mel Montagne, Board Director; and Heather Carruthers, FIRM President.

An Associated Industries of Florida (commercial entities) representative was in attendance to speak on behalf of his industry members.

The following is the hearing summary with subsequent actions to be taken.

Deputy P&C Commissioner Belinda Miller made the opening remarks and noted that FIRM and Monroe County were in attendance to make public comments. Ms. Miller asked the Citizens Property Insurance representatives for their remarks, after which the OIR panel proceeded to question CPIC on the High Risk Account filings. Upon completion of OIR's inquiries by all of their panel members, Ms. Miller opened the meeting to the public comments.

The Associated Industries (AIF) representative spoke on behalf of their business membership's interest in having insurance premiums set at market rates with no limit on increases. He noted that if Florida is hit by a serious storm, all Floridians will not be able to pay for it and businesses will be hit the hardest on assessments. The panel pointed out that AIF's members had benefitted from

decades of low rates. Further, the representative was asked if AIF members were willing to pay exorbitant rates now for something that might happen versus paying assessments later if a catastrophic storm occurs. He did not have an adequate response. When asked how many businesses were members of his organization and how many were located in high risk areas, he did not know.

FIRM and Monroe County were next on the agenda. Tim Volpe, the attorney representing Monroe County, introduced all of our representatives and gave a brief overview of our presentation. First, Colleen Repetto, Executive Director, spoke of the cost of strong, wind-worthy construction and noted that rates calculated at 100% replacement cost were excessive. The purpose of strong construction is to minimize damage and therefore result in lower claims. If rates are based on 100% replacement cost of structures that are costly to build to withstand hurricane force winds, then the premiums would be too high compared to the likelihood of total destruction. She requested that the filings not be approved.

Mel Montagne, FIRM Board Director, followed with a presentation on how these rates impact consumers. He pointed out the economic times that insureds are facing and how increased costs affect each property owner's ability to maintain insurance. If an insured cannot afford coverage, they will be cancelled and their mortgage company will impose forced coverage which is significantly more expensive. If a consumer cannot pay for their initial policy, they certainly would not be able to afford forced coverage at multiple the cost. Mel asked that the filings not be approved.

Heather Carruthers, FIRM President, came to the podium to present a FIRM Power Point entitled, *Monroe County's Mitigating Factors for Wind Damage*" (presentation available on FIRM's website at www.FIRMKeys.org) The presentation included the fact that the 'risk modeling' used to set rates was inadequate regarding Monroe County's construction conventions and vulnerabilities. Facts were presented that pointed to Monroe County's building history of strong roofs, roof to wall connections, restricted building heights, and individually engineered, site built structures. Further, the presentation addressed the inhabited county's linear geography, lack of density, and proximity to Cuba's mountainous terrain and small span of water for a storm's intensity to increase. A section on meteorology noted low land-falling strike probabilities for the Keys, wind versus flood factors based on storm strength, and past storm surge claims versus wind. Additionally, Heather made the point that, in the past, precedents have been set for special consideration for Monroe County due to a number of reasons that Monroe County is so exceptional compared to the Florida peninsula. Heather wrapped up her presentation asking that OIR not approve any rate increases for Monroe County as the risk model inputs are wrong. Due to a 2009 Florida statute not allowing Citizens Property Insurance Corp. to adjust the risk model, and not giving the Office of Insurance Regulation any way to allow for

factual discrepancies from the “garbage in/garbage out” model structure, the rates are discriminatory and should not be approved.

Monroe County was then represented by Allan Schwartz, Actuary. As filed rates are to be based on projected losses and expenses, Allan addressed actuarial practices that had not been followed by Citizens Property Insurance Corp. He went into great detail itemizing the expense areas where Citizens had failed to meet standard actuarial methods, and questioned many business expenses which appeared to be excessive.

Tim Volpe came to the podium addressing 2009 state laws. He pointed to a possible interpretation that would allow the Office of Insurance Regulation to override the Florida Commission on Hurricane Loss Projection Methodologies (FCHLPM) approval of the Florida Public Risk Model used to determine Monroe County’s windstorm rates.

The Florida Public Risk Model which is used to set rates by Citizens Property Insurance is reviewed for approval by the Florida Commission on Hurricane Loss Projection Methodologies (FCHLPM), which is a non-elected, non-judicial entity. Over the past two years, FIRM has made multiple presentations to this Commission regarding Monroe County’s specific factors that are not taken into consideration in the risk model. This is the same risk model that does not provide complete or accurate data due to the exceptional Monroe County geographical, structural, meteorological, and historical factors, as presented to the OIR by Heather Carruthers. This concluded our statements.

The OIR panel asked our presenters a number of questions which were answered in full. Steve Parton, OIR’s attorney, seemed quite persuaded by the presentations. He wondered if simply approving Citizen’s rate filings because they were developed by using a model approved by the FCHLPM, would amount to an unconstitutional assumption of legislative responsibilities.

There is no recourse or appeal process to challenge the FCHLPM’s decision once they have approved any model. Florida laws do not provide consumers with any ability to appeal the Commission’s risk model approval. Monroe County property holders, who have paid the cost of constructing or mitigating to wind-worthy standards, are unfairly evaluated for windstorm insurance purposes. The approved Florida Risk Model does not accurately reflect our projected losses.

On November 20, the Office of Insurance Regulation issued an order approving Citizens Property Insurance High Risk Account rates by county. Monroe County’s residential windstorm increase was approved at the capped rate of 10%. The effective rate of increase was 11.5% due to an additional “cash build-up” clause in the 2009 Florida House Bill 1495 which passed both Florida chambers and was signed by Gov. Crist on May 25, 2009.

Additionally, the Office of Insurance Regulation's order requires Citizens Property Insurance Corp. to address FIRM's concerns prior to CPIC's July 2010 rate filings.

Although the 2009 Florida legislature capped Citizens Property Insurance windstorm increases at 10% per year until an "actuarially sound" rate is achieved, we must continue to be vigilant that the 2010 legislature does not eliminate the 10% cap and allow rates to skyrocket once again. FIRM is working with state representatives on proposed legislation to ensure that all reasonable steps are taken to provide fair, equitable and non-discriminatory insurance rates to our community.

Future considerations –

The Florida Public Risk Model indicates Monroe County as a separate area, but not a separate risk model. FIRM's interest is in requiring the Florida Public Model to include Monroe County's geographical, structural, and meteorological factors resulting in the development and production of a separate model for the county. The potential cost of this request is unknown but likely greater than \$25,000.

Past and current consideration for county property holders to "self-insure" is a long shot. This proposal does not have an easy solution but deserves continued research looking for creative methods to achieve a plan.

FIRM is providing a number of issues to Florida legislators for their sponsorship and to the Florida Consumer Advocate's office prior to the 2010 Florida legislative session. These issues affect Monroe County, but in some cases, would benefit all Floridians.

Two bills are currently in the works. The first addresses making File and Use permanent, and the second is the future use of "windfall" sales taxes resulting from hurricane damage repair and rebuilding. These funds would be slated to support the continuation of the "My Safe Florida Home" program for future mitigation. Florida House Representative Ron Saunders (Monroe County) and Florida Senator Mike Fasano (Port Charlotte) will be sponsoring these issues to the 2010 Florida legislature.

In addition to the above, other Florida consumer insurance issues are:

1. Constitutionality of the FCHLPM – Draft a bill to challenge the constitutionality of the Florida Commission on Hurricane Loss Projection Methodologies to be the final word on risk modeling with no appeal process. The FCHLPM is neither an elected or judicial entity, but it has the authority to approve risk models without question or appeal.

2. Insurance De-regulation - Legislators who would eliminate the Office of Insurance Regulation's ability to review and approve insurance rates must be challenged. Oversight of insurance rates keeps insurance companies in check while protecting the best interests of consumer.
3. A rated risks – CPIC must produce and substantiate rates for commercial-residential properties with a replacement cost over \$10 million. CPIC must produce the documentation that they are basing the above referenced quote on. Any rate that is promulgated from a state owned insurer of last resort must be subject to regulatory approval, especially since they have a virtual monopoly in certain areas of the state and consumers have nowhere else to go.
4. 1.5% Tax- "Citizens is a not-for-profit, tax-exempt government corporation whose public purpose is to provide insurance protection to Florida property owners throughout the state". They are being allowed to charge per statute Section 627.351(6), Florida Statutes (as amended by HB 1495 and SB 1804). We need to get that stricken from the statute as this is simply a way to surreptitiously charge additional rate disguised as a tax.
5. 15% Catastrophe Financing Surcharge – once again it is a component of rate. If the only policy that you sell is to cover a catastrophic event, how is this not a component of the base rate. Same comments apply as on the 1.5 tax.
6. Clear and Itemized Billing – Mitigation credits should be itemized by category and percentage of the total available, in addition to the dollar amount of the credit, clearly indicated on the "declarations" page of each insured's bill.
7. Intervenor compensation in CA was established as part of a ballot initiative passed by the voters in 1988 that survived many legal challenges and has been in place since about 1990. Organizations that provide substantive information that result in changes to regulations should be compensated for their expenses.
8. Eliminating Citizens Property Insurance's short term rental windstorm insurance cancellation policy. Windstorm insurance coverage should be made available to short term (2 weeks or less) rental properties subject to the same CPIC rules and requirements stipulated for long term rental properties.

FIRM has requested a scheduled meeting in Tallahassee, prior to the 2010 legislative session, with Gov. Crist, House Speaker Cretul, and Senate President Atwater to discuss these important insurance issues and their impact on Florida's consumers. A copy of these issues has also been sent to Florida's Consumer Advocate Sean Shaw for his consideration.

