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HEARINGS UNIT  
OFFICE OF  
INSURANCE COMMISSIONER

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**STATE OF WASHINGTON  
OFFICE OF THE INSURANCE COMMISSIONER**

*In the Matter of*

**LEO J. DRISCOLL,**

Application for Hearing.

Docket No. 16-0002

**DECLARATION OF SCOTT  
FITZPATRICK IN SUPPORT  
OF MOTION TO DISMISS, OR  
IN THE ALTERNATIVE,  
SUMMARY JUDGMENT**

I, Scott Fitzpatrick, declare as follows:

1. I am over the age of 18 and make this declaration based on my personal knowledge.
2. I am employed by the Washington State Office of the Insurance Commissioner as an Actuary 3 with the Company Supervision and Rates and Forms Divisions. I am a Fellow of the Society of Actuaries and a Member of the American Academy of Actuaries.
3. Actuaries, like myself, specialize in particular practice areas corresponding to their training and credentials. I am a life actuary, specializing in disability insurance, and in particular long-term care insurance. Long-term care insurance is a type of disability insurance.
4. It is part of my primary responsibilities to review companies' rate filings for disability and long-term care insurance to make sure that the

DECLARATION OF SCOTT  
FITZPATRICK IN SUPPORT OF  
MOTION FOR SUMMARY JUDGMENT

1339824

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Office of Insurance Commissioner  
Insurance 5000 Building  
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companies' proposed rates are justified actuarially and meet the requirements of Washington's Insurance Code.

5. I am experienced and familiar with the Insurance Code and the Office of the Insurance Commissioner's obligations under the statutes and regulations pertaining to insurance, especially the statutes and regulations governing disability and long-term care insurance.
6. The only requirement in RCW 48.19 that I apply to disability insurance, including long-term care insurance, is the requirement that insurers file its manual of classification, manual of rules and rates, and any modifications of these manuals. I do not apply RCW 48.19.030 and RCW 48.19.040 because they are not applicable to disability insurance, which includes long-term care insurance.
7. Rate filing, correspondence with the filers, and review of a rate filing is electronic through the NAIC's System for Electronic Rate and Form Filing (SERFF). I am experienced and familiar with the NAIC's System for Electronic Rate and Form Filing (SERFF).
8. I have knowledge of and access to the 2014 MetLife rate filings and supporting materials that are the subject of this Demand for Hearing.
9. All rate filings and materials submitted with the rate filings are reviewed by Office of the Insurance Commissioner's Actuaries who specialize in that particular line of insurance that corresponds with their training and credentials.
10. I am the Actuary who conducted the review of MetLife's 2014 rate filings because of my specialized training and credentials in long-term care insurance. A true and correct copy of these rate filings are attached hereto as OIC Exhibit 1: MetLife 2014 Rate Filings.
11. On August 14, 2014, MetLife submitted three rate filings to the Office of the Insurance Commissioner through SERFF that sought to increase policy premium rates to ensure coverage of all future claims for three long-term care policies based upon the anticipated loss ratios for these

1 policies. These three long-term care policies are successive policy forms  
2 of the same product with no major change between these policies. In this  
3 instance, these three policies are distinguished within the product line as  
4 LTC.02, LTC.03, and LTC.04. This product line is a closed block of  
5 insurance, which means that MetLife cannot sell another policy from this  
6 product line. As required with a long-term care rate filing, the MetLife  
7 filing included modified policy forms for approval by the Insurance  
8 Commissioner, such as the nonforfeiture notification letters to consumers.

9  
10 12. I gained knowledge of and experience with this particular product line  
11 sold by MetLife during Mr. Driscoll's previous Demand for Hearing that  
12 challenged the approval of MetLife's 2011 rate filings. I am not the  
13 Actuary who approved the 2011 MetLife rate filings. Lee Michelson,  
14 then an Actuary for the Office of the Insurance Commissioner, approved  
15 MetLife's 2011 rate filings. Mr. Michelson left the Office of the  
16 Insurance Commissioner for other employment prior to Mr. Driscoll's  
17 filing the previous Demand for Hearing in 2014. In order to provide  
18 information and responses to the Demand for Hearing on behalf of the  
19 Office of the Insurance Commissioner, I conducted a thorough review of  
20 the 2011 MetLife rate filings. A true and correct copy of MetLife's 2011  
21 rate filings are attached hereto as OIC Exhibit 2: MetLife's 2011 Rate  
22 Filings.

23 13. I also reviewed the email communications between OIC's Actuaries  
24 regarding the 2011 MetLife rate filings, and in particular, the discussions  
25 that approved MetLife's submission of national experience due to the  
26 small number of claims sold in Washington and nationally. A true and  
correct copy of these emails are attached hereto as OIC Exhibit 3: Prior  
OIC Approval of National Experience. After reviewing the entire  
MetLife 2011 rate filings and email communications between staff  
Actuaries, I agreed with the decision to accept national loss experience in  
2011 because Washington experience was not creditable and the most

1           creditable experience given the small number of policies sold in this  
2           product line was national experience. A true and correct my declaration  
3           in that matter is attached hereto as OIC Exhibit 4: Prior Declaration of  
4           Scott Fitzpatrick.

- 5           14.    As a result of my previous review conducted during Mr. Driscoll's first  
6           Demand for Hearing regarding MetLife's 2011 rate filings, I was already  
7           experienced with and informed of the history of this particular block of  
8           long-term care insurance when I began my actuarial review of MetLife's  
9           2014 rate filings.
- 10          15.    The 2014 MetLife rate filings and supporting materials were no different  
11          in form or substance than any other typical long-term care insurance rate  
12          filing. However, MetLife submitted national experience in place of  
13          Washington experience having already received approval from the  
14          Insurance Commissioner to submit national experience during the course  
15          of the prior rate filing. Immediately, I recognized that MetLife's 2014  
16          rate filings could not submit Washington experience because Washington  
17          experience would not meet actuarial and insurance industry standards.  
18          These standards require that for loss ratios and experience to be creditable  
19          there must be at least 1,082 active claims. Active claims are claims that  
20          are filed against the policy and are being processed at the time of the rate  
21          filing. There are only eight hundred and seventy-three (873) policies sold  
22          and current in the state of Washington, and only 34,910 policies sold and  
23          current nationally. only a small percentage of these policies would have  
24          been in active claim status. As a result, the only experience that OIC  
25          could accept as creditable would be national experience. Again, I agreed  
26          with the original decision to accept national experience and did not  
              disapprove of MetLife's submission of national experience for these rate  
              filings.
16.    I still have concerns that even with this change in premiums, these  
              policies will be operating at approximately a 98.4% projected loss ratio.

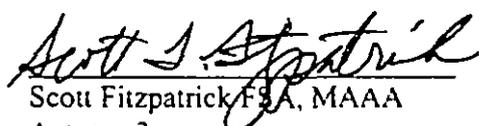
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Operating at such a high loss ratio has the potential to violate the protections of WAC 284-83-230(6) which requires that loss ratios must provide for future reserves, and must account for the maintenance of such reserves for the future. However, this concern was outweighed by the impact of premium changes on policyholders.

- 17. On July 10, 2015, MetLife's 2014 rate filings were approved. MetLife submitted all required information to support these rate filings. The rate filings were not excessive, inadequate or unfairly discriminatory and were in compliance with the Insurance Code.

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Executed on the 23<sup>rd</sup> day of April, 2016, at Vancouver, Washington.

  
Scott Fitzpatrick, FSA, MAAA  
Actuary 3  
Office of the Insurance Commissioner