

BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

In Re: : Pursuant to Sections 1401, 1402,  
: and 1403 of the Insurance  
Application of Farmers' and Mechanics' : Holding Companies Act, Article  
Mutual Insurance Company in : XIV of the Insurance Company  
Support of the Request for Approval : Law of 1921, Act of May 17, 1921,  
to Merge with Union Mutual Insurance : P.L. 682, as amended, 40 P.S.  
Company of Westmoreland County with : §§991.1401, 991.1402, and  
Farmers' and Mechanics' Mutual : 991.1403; Sections 1921 through  
Insurance Company Being the Survivor : 1929 of the 1988 Business  
: Corporation Law, Act of  
: December 21, 1988, P.L. 1444, No.  
: 177, as amended, 15 Pa. C.S.  
: §§1921-1928; Sections 205 and 207  
: of the GAA Amendments Act of  
: 1990, Act of December 19, 1990,  
: P.L. 834, No. 198, as amended, 15  
: P.S. §§21205 and 21207.  
:  
: Order No. ID-RC-01-10

**DECISION AND ORDER**

AND NOW, on this 5<sup>th</sup> day of February, 2001, M. Diane Koken,  
Insurance Commissioner of the Commonwealth of Pennsylvania ("Commissioner"),  
hereby makes the following Decision and Order:

Pursuant to the Insurance Holding Companies Act, the 1988 Business  
Corporation Law and the GAA Amendments Act of 1990, and in consideration of the  
documents, presentations and reports received, as well as other inquiries and studies as  
permitted by law, the Commissioner hereby makes the following findings of fact:

## FINDINGS OF FACT

### Identity of Parties

1. Farmers' and Mechanics' Mutual Insurance Company ("F&M") is a domestic mutual fire insurance company organized under the laws of the Commonwealth of Pennsylvania with its principal place of business in Forksville, Pennsylvania.
2. Union Mutual Insurance Company of Westmoreland County ("Union") is a foreign mutual fire insurance company organized under the laws of the Commonwealth of Pennsylvania with its principal place of business in Greensburg, Pennsylvania.

### Filing of the Application

3. On November 29, 2000, the Insurance Department of the Commonwealth of Pennsylvania ("Department") received an initial application (which together with all material received subsequently is collectively referenced as "Application") from F&M requesting approval to merge with Union with F&M being the survivor.
4. The Insurance Holding Companies Act, Article XIV of the Insurance Company Law of 1921, Act of May 17, 1921, P.L. 682, as amended, 40 P.S. §§991.1401 et seq. ("Insurance Holding Companies Act"), provides that all mergers or other acquisitions of control of domestic insurers must be filed with the Department for approval or disapproval.
5. The 1988 Business Corporation Law, Act of December 21, 1988, P.L. 1444, as amended, Sections 1921 through 1929, 15 Pa. C.S. §§1921 through 1929 ("1988 BCL"), and the GAA Amendments Act of 1990, P.L. 834, No. 198, as amended, 15 P.S. §§21205, 21207 ("GAA Amendments Act"), provide that all plans of merger of domestic insurers must be filed with the Department for approval or disapproval.
6. The Application was filed with the Department pursuant to Section 1402 of the Insurance Holding Companies Act and Section 205 of the GAA Amendments Act.

### Notice and Filing of Comments

7. On December 9, 2000, the Department published notice in the Pennsylvania Bulletin that the Application had been submitted and such notice invited interested persons to submit comments to the Department regarding the Application for a 30-day period, ending January 9, 2001.

8. During the 30-day public comment period, the Department received no comments regarding the Application.

### **The Transaction**

9. F&M and Union executed an Agreement and Plan of Merger dated as of December 13, 2000, ("Merger Agreement") which provides for F&M to merge with Union, with F&M being the surviving corporation.
10. As described in the Application, the Merger Agreement has been adopted by the policyholders of F&M and the policyholders of Union at meetings conducted on January 31, 2001, and by the Board of Directors of F&M by resolution adopted at a meeting on December 13, 2000, and by the Board of Directors of Union by resolution adopted at a meeting on December 8, 2000.
11. As described in the Application, Union is a single state insurer with 4,712 policyholders in Pennsylvania as of December 31, 2000.
12. As described in the Application, F&M shall acquire all of the assets of Union and assume all of the debts and other liabilities of Union.

### **Standards for Review**

13. Section 1402(f)(1) of the Insurance Holding Companies Act establishes the standards for approval of an application for a merger or other acquisition of control of a domestic insurer.
14. The application for a merger or other acquisition of control must be approved unless the Commissioner finds any one of certain enumerated conditions to be present.

#### Licensing Requirements

15. When analyzing an application for a merger involving a domestic insurer under Section 1402 of the Insurance Holding Companies Act, the Commissioner reviews the requirements for continued licensure of the surviving insurer.
16. The line or lines of insurance for which an insurance company may be incorporated and become licensed to write are set out in Section 202 of the Insurance Company Law (40 P.S. §382).

17. Section 206 of the Insurance Company Law (40 P.S. §386) sets out the minimum surplus required of an insurance company for each line of insurance for which it is incorporated.
18. F&M is currently licensed by the Department to transact the same lines of insurance for which Union transacts in the Commonwealth.
19. In accordance with Section 206 of the Insurance Company Law (40 P.S. §386), F&M is required to maintain a minimum surplus of \$950,000 to transact the business of insurance in this Commonwealth for those lines of insurance for which it is licensed.
20. In accordance with Section 206 of the Insurance Company Law (40 P.S. §386), Union is required to maintain a minimum surplus of \$950,000 to maintain a license to transact the business of insurance in this Commonwealth for those lines of insurance for which it is licensed.
21. F&M and Union each currently have sufficient surplus to satisfy the requirements to write the lines of insurance for which each is licensed.
22. Upon completion of the transaction, F&M will have surplus in an amount to maintain a license to transact the business of insurance in this Commonwealth for those lines of insurance for which it is presently licensed.

#### Competitive Impact

23. The merger of Union with and into F&M is subject to review and analysis under Section 1403(d)(2) of the Insurance Holding Companies Act to determine whether the effect of the merger would substantially lessen competition in this Commonwealth or tend to create a monopoly therein.
24. The merger of Union with and into F&M will not lessen competition or tend to create a monopoly in the Commonwealth because the market shares of F&M and those insurance company affiliates of F&M licensed to transact the business of insurance in Pennsylvania and the market share of Union, as stated in the Application, do not exceed the market share levels established in Section 1403 of the Insurance Holding Companies Act.

Financial Condition of Applicant

25. When analyzing an application for a merger involving a domestic insurer under Section 1402 of the Insurance Holding Companies Act, the Department reviews the financial condition of the surviving insurer.
26. As of September 30, F&M reported:  
  
Assets of \$1,315,147  
Liabilities of \$212,548  
Shareholder's Equity of \$1,102,599
27. The financial condition of F&M would not pose any impediments to the merger nor prejudice the interest of the policyholders of Union.

Plans for the Acquired Insurer

28. When analyzing an application for a merger involving a domestic insurer under Section 1402 of the Insurance Holding Companies Act, the Department reviews the plans or proposals of the surviving insurer after the merger.
29. As stated in the Application, no in-force policies will be non-renewed as a result of the merger.
30. As stated in the Application, all existing agents of Union will be offered contracts with F&M.
31. The Department did not find the Merger Agreement to be:
  - a. unfair or unreasonable to the policyholders of Union, or
  - b. contrary to the interests of the public.
32. The Department did not find any material changes in the plans for the business, corporate structure or management of F&M after the merger that would be:
  - a. unfair and unreasonable to the policyholders of Union, or
  - b. contrary to the interests of the public.

### Management

33. When analyzing an application for a merger involving a domestic insurer under Section 1402 of the Insurance Holding Companies Act, the Department reviews the competence, experience and integrity of the persons who will control the operations of the surviving insurer.
34. The current directors and executive officers of F&M will not change as a result of the Merger Agreement.
35. Biographical affidavits for all directors and executive officers of F&M were reviewed by the Department.
36. The Department is satisfied that the persons who control the operations of F&M have such competence, experience and integrity that the interests of policyholders and the public would not be jeopardized.
37. If any of the above Findings of Fact are determined to be Conclusions of Law, they shall be incorporated in the Conclusions of Law as if fully set forth therein.

### **CONCLUSIONS OF LAW**

1. Under Section 1402 of the Insurance Holding Companies Act, the Department has jurisdiction to review and approve the merger of F&M and Union.
2. Under Section 1402 of the Insurance Holding Companies Act, the Department must approve an application for a merger unless the Department has found that:
  - a) The insurer will not be able to satisfy the requirements for the issuance of a license to operate the line or lines of business for which they are presently licensed;
  - b) The effect of the merger will substantially lessen competition in insurance in this Commonwealth or tend to create a monopoly therein;
  - c) The financial condition of the acquiring company is such as might jeopardize the financial stability of the insurer or prejudice the interests of its policyholders;
  - d) Any plans to liquidate the insurer, sell its assets or consolidate or merge it with any person, or to make material changes in its business or corporate structure or management are unfair and unreasonable to policyholders of the insurers and not in the public interest;

- e) The competence, experience and integrity of those persons who would control the operation of the insurer are such that it would not be in the interest of policyholders and the general public to permit the acquisition of control; or,
  - f) The acquisition is likely to be hazardous or prejudicial to the insurance buying public.
  - g) The acquisition of control is not in compliance with the laws of this Commonwealth, including Article VIII-A, Insurance Company Mutual-to-Stock Conversion Act.
3. Under Section 1402 of the Insurance Holding Companies Act, the Commissioner has not found that any of the above conditions are present with respect to the merger of F&M and Union with F&M being the surviving insurer.
  4. The Commissioner concludes that the preparation of the Merger Agreement, pertaining to the terms and conditions, satisfies the requirements of Section 1922 of the 1988 BCL.
  5. The Commissioner concludes that the Merger Agreement satisfies the requirements of Section 1924 as it has been adopted by the policyholders of F&M and Union and by the Board of Directors of F&M and Union.
  6. The Commissioner concludes that the Articles of Merger will satisfy the requirements of Section 1926 of the 1988 BCL.
  7. The Commissioner concludes that the Merger Agreement will be effective on or after proper filing of Articles of Merger with the Department of State pursuant to Sections 1927 and 1928 of the 1988 BCL.
  8. The Commissioner concludes that, if the proposed merger is consummated, all the rights, privileges, immunities, powers and purposes of Union will be conveyed to the surviving entity, as a matter of law, pursuant to Section 1929 of the 1988 BCL.
  9. Pursuant to Section 205(b) of the GAA Amendments Act, the Commissioner concludes that the terms and conditions of the proposed merger are fair and that the proposed merger is in accordance with law and not injurious to the interests of the policyholders and creditors.
  10. The Application satisfies the requirements of the Insurance Holding Companies Act, the 1988 BCL and the GAA Amendments Act.

11. If any of the above Conclusions of Law are determined to be Findings of Fact, they shall be incorporated in the Findings of Fact as if fully set forth therein.

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	:	P.S. §§21205 and 21207.
	:	:
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ORDER

Upon consideration of the foregoing, the Insurance Commissioner of the Commonwealth of Pennsylvania ("Commissioner") hereby approves the application of Farmers' and Mechanics' Mutual Insurance Company ("F&M") requesting approval of the merger of Union Mutual Insurance Company of Westmoreland County ("Union") with and into F&M subject to the following conditions:

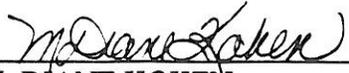
1. A copy of the Articles of Merger must be filed with the Commissioner not later than ten (10) days after their filing with the Pennsylvania Department of State.
2. F&M shall mail to each policyholder of Union an approved endorsement within sixty (60) days of the effective date of the proposed merger. This

endorsement will notify all policyholders of Union of the merger and advise them that F&M is responsible for all of the obligations and liabilities of such policyholders' policies.

3. F&M shall provide to the Department for review and comment a draft of the notice to Union's agencies, agents, and brokers providing notice of the transaction.

This Order is effective immediately.



  
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M. DIANE KOKEN  
Insurance Commissioner  
Commonwealth of Pennsylvania