



Tony Evers, Governor  
Mark V. Afable, Commissioner

State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

125 South Webster Street • P.O. Box 7873  
Madison, Wisconsin 53707-7873  
Phone: (608) 266-3585 • Fax: (608) 266-9935  
E-Mail: ociinformation@wisconsin.gov  
Web Address: oci.wi.gov

DATE: August 5, 2019

TO: Amy J. Malm, Hearing Examiner *ASM 8/7/19*  
Kristin L. Forsberg, Insurance Financial Examiner – Chief *KLF*

FROM: Michael A. Mancusi-Ungaro, Insurance Financial Examiner – Advanced (Licensing) *MMU*  
Steven J. Junior, Deputy Bureau Director *SJJ 8/5/2019*

SUBJECT: The Merger of Sheboygan Falls Insurance Company with and into Atlantic States Insurance Company (Case No. 19-C43195)

The purpose of this Memo is to summarize the results of OCI's analysis with respect to the above-referenced Form A filing performed in accordance with the criterion set-forth in s 611.72, Wis. Stat.

**Application Contacts:**

Jeffrey D. Miller, Executive Vice President and Chief Financial Officer  
Robert R. Long, Jr., Senior Vice President, General Counsel  
Atlantic States Insurance Company  
1195 River Road  
Marietta, Pennsylvania 17547

**Executive Summary**

This Form A Statement concerns the proposed merger of Sheboygan Falls Insurance Company (“Sheboygan Falls”) with and into its affiliate Atlantic States Insurance Company (“Atlantic States”). Sheboygan Falls and Atlantic States are both wholly owned subsidiaries of the Donegal Group, Inc. an insurance holding company under the ultimate control of Donegal Mutual Insurance Company. The stated reason for the merger is to simplify the holding company structure and reduce administrative expenses. There is no present plan to reduce headcount at the Sheboygan Falls, Wisconsin office. Nothing in the stock purchase agreement or the Form A filing would be considered grounds for denying the proposed merger.

**The Transaction**

On July 24, 2019, Atlantic States and Sheboygan Falls entered into an Agreement and Plan of Merger whereby Sheboygan Falls will be merged with and into Atlantic States with Atlantic States being the surviving insurance company. At that time, Sheboygan Falls will cease to exist. The existing issued and outstanding shares of Sheboygan Falls will be cancelled and extinguished. There will be no change to the issued and outstanding shares of Atlantic States.

### The Insurers

Sheboygan Falls Insurance Company, located in Sheboygan Falls, Wisconsin, is a single-state (WI-only) stock property and casualty insurer that was incorporated in 1899 as a mutual insurer under Chapter 611 of the Wisconsin Statutes. Sheboygan Falls writes primarily homeowners insurance and some personal auto coverages.

Atlantic States is a Pennsylvania domiciled property and casualty insurer that is also authorized to write in several other states.

### Nature, Source and Amount of Consideration

Since both the Applicant, Atlantic States, and the target, Sheboygan Falls, are both members of the same holding company group, have the same direct holding company stockholder and are also both stock insurers, there is no consideration being exchanged in this transaction. Upon consummation of the merger, the shares of Sheboygan Falls will be cancelled, and all rights and obligations connected therewith will be extinguished.

### The Applicant's Future Plans

The Applicant's future plans are to continue to operate as it has done in the past. This transaction is just intended to simply Donegal Mutual's corporate structure and eliminate a redundant single-state entity. In the Form A, Donegal Mutual Insurance Company and Atlantic States assert that they: (1) intend to maintain and expand the marketing, underwriting and claims servicing functions of the Sheboygan Falls office; (2) intend to strengthen and expand the independent agency relationships of the Sheboygan Falls office; and (3) intend to enhance the products and services the Sheboygan Falls office provides to policyholders in Wisconsin. Atlantic States entered into a separate Agreement and Plan of Merger dated July 24, 2019, whereby Le Mars Insurance Company would merge with and into Atlantic States.

### The 611.72 (3) Standard

Wisconsin Statute s. 611.72(3)(am) creates a five part test to for the Commissioner to use when evaluating the merger of a domestic stock insurance company. It reads, in relevant part:

**(am)** The commissioner shall approve the plan if the commissioner finds...that it would not violate the law or be contrary to the interests of the insureds of any participating domestic corporation or of the Wisconsin insureds of any participating nondomestic corporation and that:

1. After the change of control, the domestic stock insurance corporation or any domestic stock insurance corporation controlled by the insurance holding corporation would be able to satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed;
2. The effect of the merger or other acquisition of control would not be to create a monopoly or substantially to lessen competition in insurance in this state;

3. The financial condition of any acquiring party is not likely to jeopardize the financial stability of the domestic stock insurance corporation or its parent insurance holding corporation, or prejudice the interests of its Wisconsin policyholders;
4. The plans or proposals which the acquiring party has to liquidate the domestic stock insurance corporation or its parent insurance holding corporation, sell its assets, merge it with any person or make any other material change in its business or corporate structure or management, are fair and reasonable to policyholders of the domestic stock insurance corporation or in the public interest; and
5. The competence and integrity of those persons who would control the operation of the domestic stock insurance corporation or its parent insurance holding corporation are such that it would be in the interest of the policyholders of the corporation and of the public to permit the merger or acquisition of control.

These five requirements are analyzed below.

**s. 611.72 (3) (am)1:** After reviewing the documents provided by the Applicant in their Form A filing, OCI Staff believes that the Applicant is able to satisfy s. 611.72(3) (am)1. This proposed acquisition does not raise concerns with the OCI because the Applicant is consolidating one wholly owned subsidiary into another. Once licensed in Wisconsin, Atlantic States will have no territorial gaps as the result of its merger with Sheboygan Falls. Atlantic States will have all the lines of insurance presently possessed by Sheboygan Falls, except for aircraft. Sheboygan Falls does not have any aircraft risks, so there will be no gaps in the lines of authority either.

While it is not directly related to the consideration of this merger, the merger of Le Mars Insurance Company with and into Atlantic States was also reviewed for territorial and line of authority gaps. Atlantic States was alerted to the fact that Le Mars Insurance Company is licensed in North Dakota and Oklahoma, but Atlantic States is not. Atlantic States responded that they have no business in North Dakota and Oklahoma. Atlantic States will have all the lines of authority presently possessed by Le Mars Insurance Company in Wisconsin.

**s. 611.72 (3) (am)2:** It is OCI's opinion that a Form E challenge is not necessary at this time as this proposed merger involves entities that are already under common control. Additionally, the Wisconsin premium volume involved in this transaction is well below the competitive thresholds. OCI's examination of the potential competitive effects concluded that approving the acquisition would not violate the competitive standards set forth in s. Ins 40.025 (4), Wis. Adm. Code.

**s. 611.72 (3) (am)3:** Paragraph 3 requires that the financial condition of any acquiring party is not likely to jeopardize the financial stability of the domestic insurance corporation or its parent insurance corporation, or prejudice the interest of its Wisconsin policyholders. After reviewing the documents provided by the Applicant, the concern that either Sheboygan Falls or Atlantic States would jeopardize the financial condition of the other party was deemed nonexistent since both entities are owned by the same ultimate controlling person and participate in the same affiliated reinsurance pooling agreement. OCI will monitor compliance with s. 611.72 (3) (am)3 going forward.

**s. 611.72 (3) (am)4:** Paragraph 4 requires that the post-transaction plans to change the business structure be “fair and reasonable to policyholders of the domestic stock insurance corporation or in the public interest.” Review of the Form A and its supporting documents raise no concerns that certain customers would be prejudiced post-transaction as Atlantic States is in a strong financial position and the risk to customers is minimal given the implicit and explicit support pledged by Donegal Mutual Insurance Company. Compliance with s. 611.72 (3) (am)4 is expected and not a significant concern at this time.

**s. 611.72 (3) (am)5:** OCI’s information regarding the officers and directors of the Applicant does not raise any concerns.

### **Conclusion**

The merger of Sheboygan Falls Insurance Company with and into Atlantic States Insurance Company should be approved.