June 9, 2008

VIA FAX

The Honorable David M. Paterson
Governor, State of New York
Executive Chamber, State Capitol
Albany, New York 12224

Dear Governor Paterson:

The undersigned state and national and consumer organizations urge you to quickly rein in excessive automobile insurance rates that are particularly harmful to those living in congested urban and suburban areas, such as New York City, Westchester and Long Island. Moreover, with gasoline at $4 per gallon, New Yorkers are driving less, which will reduce auto insurer losses. We urge you to order the State Insurance Department to act now to ensure that drivers see a commensurate reduction in their premiums.

The recommendations outlined below will not only restore fairness to automobile insurance rates, but provide beleaguered New York drivers with much-needed financial relief as they respond to skyrocketing gasoline prices by driving less.

The cost of automobile coverage that New Yorkers purchase relative to the claims paid out by insurers has been well above the national average for the last five years. This means that insurers have been consistently overcharging New Yorkers and realizing unjustifiably high profits. Meanwhile, past experience and statistics regarding increased mass transit use indicate that consumers are beginning to reduce the number of miles they drive due to increasing gasoline prices. This factor alone should necessitate a reduction in automobile insurance rates, as losses covered by insurers will decline as consumers drive less.

New York was once the acknowledged leader in this country in implementing innovative and meaningful standards to protect insurance consumers, but the State Insurance Department (SID) has failed in recent years to require automobile insurers to lower rates to more equitable levels. For twelve years under the previous administration, the SID reduced oversight of automobile insurance rates without obtaining legislative authorization, even though state law requires insurers to seek prior approval of rates. More recently, Insurance Superintendent Dinallo has been working with the New York State Commission to Modernize the Regulation of Financial Services, which he co-chairs, to consider proposals that would eliminate prior approval of automobile rates entirely. This is the wrong approach. Weakened oversight of insurance rates has clearly failed New York drivers, as have previous state experiments with loose regulation.

Rate regulation must be strengthened to protect consumers and foster competition, so that the State can regain its national prominence as a leader in consumer protection.

The situation is even worse with home insurance rates. Homeowners on Long Island and New York City in particular have suffered in recent years as insurers have sharply increased rates and cut back coverage. Meanwhile, insurers earned profits on home insurance in New York that were more than three times higher than the national average from 1997 through 2006.

We urge you to immediately take steps to end both historic overpricing by insurers in New York and to anticipate the drop in claims that will occur as gasoline prices stay high. In the short term, we urge you to have the SID convene a rate hearing to require leading insurers to show cause as to why rates should not be immediately lowered. The SID should also be required to do a "top-to-bottom" evaluation of the procedures it uses under current law to assess both home and automobile insurance rate requests from insurers, to ensure that rate increases that are approved are justified and fair to consumers.

In the longer term, we urge you to propose legislation based on a successful California law that would overhaul the regulation of automobile insurance and dramatically improve consumer protections. The California system has not only kept rates low, but has also resulted in generous profits for insurers and a high level of competition. For example, from 1989 to 2005, automobile insurance rates in California increased by only 12.9 percent, compared to a 69 percent increase in New York. (A detailed report on this law can be found at: http://www.consumerfed.org/pdfs/state_auto_insurance_report.pdf).

We look forward to speaking to you further about how we can work together to lower overpriced insurance rates in New York and improve insurance regulation.

Sincerely,

J. Robert Hunter
Insurance Director
Consumer Federation of America

Russ Haven
Legislative Counsel
New York Public Interest Research Group

Charles Bell
Programs Manager
Consumers Union

Cc: Charles O'Byrne
Gaurav Vasisht

EXCESSIVE AUTO INSURANCE RATES AND PROFITS IN NEW YORK

In the last few years, property/casualty insurance rates in New York have been exceedingly high, resulting in excessive profits for insurers. (The attached letter from the Consumer Federation of America to the New York Insurance Department documents the problem in greater detail.)

Auto insurance profits have been particularly high. Private passenger car insurance loss ratios (the percentage of the premium paid out to consumers in claims) in the nation and in New York have been:

STATE	5-YEARS ENDED 12/31/2006	3-YEARS ENDED 12/31/2006	2006
US-PP Auto	61%	59%	58%
NY-PP Auto	55%	50%	51%

The loss ratio appropriate for auto insurance to produce a fair profit is of the order of 65 percent. The actual loss ratios in New York suggest that auto insurance rates are excessive in and should be reduced. This is confirmed by profit data. According to the National Association of Insurance Commissioners, returns on net worth in personal auto insurance in New York were 18.7 percent in 2004, 19.8 percent in 2005 and 16.9 percent in 2006, a three-year average of 18.5 percent. By contrast, the average profit nationally was 13.3 percent in 2004, 11.0 percent in 2005 and 12.1 percent in 2006, averaging 12.1 percent. It is important to note that national profits over these three years is the highest ever recorded.[1] The even higher profit levels earned by insurers in New York indicate that consumers have been significantly overcharged.

High Gas Prices Will Result in Future Windfall Profits for Auto Insurers:

When gas prices rise sharply, consumers adjust by changing their driving behavior by using mass transit more often, not driving all the way to work or school, consolidating shopping trips, and taking vacations closer to home. (See the attachments below for more information.) This means that New Yorkers will drive fewer miles while gasoline prices stay high.) Fewer miles traveled means that the fewer claims will be filed with insurers, their losses will decline and their profits will increase unless the state takes action.

The problem is particularly acute in New York City where, as documented in a report by the New York City Comptroller,[2] auto rates skyrocketed in New York City, yielding "historically high" profits. For example, the current rate charged to a 20-year old Brooklyn man by State Farm is $4,511 for the coverage the State requires him to buy.[3]

[1] For an in-depth analysis of the profits of insurance companies nationally, see: http://www.consumerfed.org/pdfs/2008Insurance_White_Paper.pdf.

[2] Highway Robbery: The High Cost of Automobile Insurance in New York, October 2006.

[3] New York Insurance Department web site, visited on May 12, 2008. The rate is as of July 1, 2007.

GAS PRICE IMPACT ON AUTO INSURANCE PRICING

It is well established in research that driving behavior changes somewhat when gas prices increase, and these behavioral changes impact claim frequency. Consumers simply respond to economic incentives and disincentives by reducing their driving as gas prices rise. As a result, auto insurance claim frequencies drop. Consequently, higher gas prices lead to lower auto insurance claim costs.

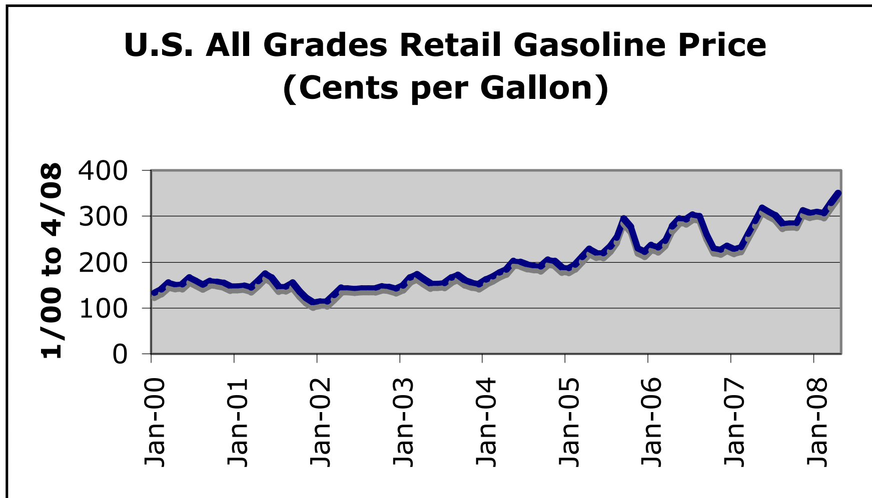
Mr. Leroy Boison, a Fellow of the Casualty Actuarial Society, studied this effect in 2005[4]. After studying the 1979-1980 energy crisis, Mr. Boison found that "The crisis did not just contribute to short-term reductions in auto claims frequency; it also contributed to a long-term decline. For several years after the political crisis had passed and gasoline prices declined from their historic highs, claims frequency failed to return to pre-crisis levels." One of the reasons for this development was that "…drivers found other ways to get around and stuck with them. These other factors include carpooling, public transportation and consolidating errands, which reduced drivers' exposure to the perils of the road."

Mr. Boison concluded that "Since increases in gasoline prices contributed to a long-term decline in claims frequency as drivers opted to put fewer miles on the road, it is reasonable to assume the same could have happened after this crisis if the increase in gas prices was significant and remained at high level." Other studies have also confirmed this effect.[5]

Auto insurance rates are based on the trends regarding the cost and frequency of claims. The cost of claims is not impacted by gas price, except very indirectly. But if the cost of gasoline makes people change their driving behavior, then the frequency of accidents and, thus, claims is directly affected.

The attached May 10, 2008 *New York Times* article[6] is evidence of the sharp changes in behavior as a result of gasoline prices that are now approaching $4 a gallon at the pump. During the week of May 12, 2008, the average national cost topped $3.70 a gallon:

[4] Will Post-Katrina Gas Shortages Impact Auto Claim Frequencies?, Pinnacle Actuarial Resources, Inc., December 2005.
[5] Gas Prices and Auto Rates: Insurance Implications, Hunter, J. Robert, 1981; Gas Price Spike – Impact no Auto Insurance Pricing, Hunter, J. Robert, January 2006.
[6] See Appendix 2



Federal Highway Administration data shows that passenger automobile miles driven dropped by 0.7 percent from 2005 to 2006, well before the current spike in prices.[7]

	ALL GRADES NOMINAL	REAL
1978	0.65	$2.07
1979	0.88	$2.51
1980	1.22	$3.07
1981	1.35	$3.08
1982	1.28	$2.75
1983	1.23	$2.56
1984	1.2	$2.39
1985	1.2	$2.31
1986	0.93	$1.76
1987	0.96	$1.75
1988	0.96	$1.68
1989	1.06	$1.77
1990	1.22	$1.94
1991	1.2	$1.83
1992	1.19	$1.76
1993	1.17	$1.68
1994	1.17	$1.64
1995	1.21	$1.65
1996	1.29	$1.70
1997	1.29	$1.67
1998	1.12	$1.42
1999	1.22	$1.52
2000	1.56	$1.88
2001	1.53	$1.79
2002	1.44	$1.66

[7] Annual Vehicle Distance Traveled in Miles and related Data – 2006. Chart VM-1, December 30, 2007.

2003	1.64	$1.85
2004	1.92	$2.11
2005	2.34	$2.48
2006	2.64	$2.71
2007	2.85	$2.85
June 2, 2008	$4.026	$4.026

Source: Energy Information Administration; prices are for all grades of gasoline

The current price of gasoline is an all-time high in inflation-adjusted terms for the first time since the 1980s crisis era. It is incumbent upon the State Insurance Department to test the current pricing structures in auto insurance to determine if the changes in driving behavior are, in at least part, to blame for the remarkable profits of property/casualty insurers in recent years and if current gas prices will lead to further windfall profits for insurers in New York. It would be a mistake if, in performing this analysis, regulators relied only on long-term trend factors without adjusting claim frequency expectations downward to reflect the sharp recent gas price increases.

May 10, 2008

Gas Prices Send Surge of Riders to Mass Transit

By CLIFFORD KRAUSS, New York Times

DENVER — With the price of gas approaching $4 a gallon, more commuters are abandoning their cars and taking the train or bus instead.

Mass transit systems around the country are seeing standing-room-only crowds on bus lines where seats were once easy to come by. Parking lots at many bus and light rail stations are suddenly overflowing, with commuters in some towns risking a ticket or tow by parking on nearby grassy areas and in vacant lots.

"In almost every transit system I talk to, we're seeing very high rates of growth the last few months," said William W. Millar, president of the American Public Transportation Association. "It's very clear that a significant portion of the increase in transit use is directly caused by people who are looking for alternatives to paying $3.50 a gallon for gas."

Some cities with long-established public transit systems, like New York and Boston, have seen increases in ridership of 5 percent or more so far this year. But the biggest surges — of 10 to 15 percent or more over last year — are occurring in many metropolitan areas in the South and West where the driving culture is strongest and bus and rail lines are more limited.

Here in Denver, for example, ridership was up 8 percent in the first three months of the year compared with last year, despite a fare increase in January and a slowing economy, which usually means fewer commuters. Several routes on the system have reached capacity, particularly at rush hour, for the first time.

"We are at a tipping point," said Clarence W. Marsella, chief executive of the Denver Regional Transportation District, referring to gasoline prices.

Transit systems in metropolitan areas like Minneapolis, Seattle, Dallas-Fort Worth and San Francisco reported similar jumps. In cities like Houston, Nashville, Salt Lake City, and Charlotte, N.C., commuters in growing numbers are taking advantage of new bus and train lines built or expanded in the last few years. The American Public Transportation Association reports

that localities with fewer than 100,000 people have also experienced large increases in bus ridership.

In New York, the Metropolitan Transportation Authority reports that ridership was up the first three months of the year by more than 5 percent on the Long Island Rail Road and the Metro-North Railroad, while M.T.A. bus ridership was up 10.9 percent. New York City subway use was up 6.8 percent for January and February. Ridership on New Jersey Transit trains was up more than 5 percent for the first three months of the year.

The increase in transit use coincides with other signs that American motorists are beginning to change their driving habits, including buying smaller vehicles. The Energy Department recently predicted that Americans would consume slightly less gasoline this year than last — for the first yearly decline since 1991.

Oil prices broke yet another record on Friday, climbing $2.27, to $125.96 a barrel. The national average for regular unleaded gasoline reached $3.67 a gallon, up from $3.04 a year ago, according to AAA.

But meeting the greater demand for mass transit is proving difficult. The cost of fuel and power for public transportation is about three times that of four years ago, and the slowing economy means local sales tax receipts are down, so there is less money available for transit services. Higher steel prices are making planned expansions more expensive.

Typically, mass transit systems rely on fares to cover about a third of their costs, so they depend on sales taxes and other government funding. Few states use gas tax revenue for mass transit.

In Denver, transportation officials expected to pay $2.62 a gallon for diesel this year, but they are now paying $3.20. Every penny increase costs the Denver Regional Transportation District an extra $100,000 a year. And it is bracing for a $19 million shortfall in sales taxes this year from original projections.

“I’d like to put more buses on the street,” Mr. Marsella said. “I can’t expand service as much as I’d like to.”

Average annual growth from sales tax revenue for the Bay Area Rapid Transit District, a rail service that connects San Francisco with Oakland, has been 4.5 percent over the last 15 years. It

expects that to fall to 2 percent this year, and electricity costs are rising.

“This is a year of abundant caution and concern,” said Dorothy W. Dugger, BART’s general manager, even though ridership on the line was up nearly 5 percent in the first quarter of the year.

Nevertheless, Ms. Dugger is happy that mass transit is winning over converts. “The future of mass transit in this country has never been brighter,” she said.

Other factors may be driving people to mass transit, too. Wireless computers turn travel time into productive work time, and more companies are offering workers subsidies to take buses or trains. Traffic congestion is getting worse in many cities, and parking more expensive.

Michael Brewer, an accountant who had always driven the 36-mile trip to downtown Houston from the suburb of West Belford, said he had been thinking about switching to the bus for the last two years. The final straw came when he put $100 of gas into his Pontiac over four days a couple of weeks ago.

“Finally I was ready to trade my independence for the savings,” he said while waiting for a bus.

Brayden Portillo, a freshman at the University of Colorado Denver, drove from his home in the northern suburbs to the downtown campus in his Jeep Cherokee the entire first semester of the school year, enjoying the rap and disco music blasting from his CD player.

He switched to the bus this semester because he was spending $40 a week on gas — half his salary as a part-time store clerk. “Finally, I thought this is stupid,” he said, and he is using the savings to pay down a credit card debt.

The sudden jump in ridership comes after several years of steady, gradual growth. Americans took 10.3 billion trips on public transportation last year, up 2.1 percent from 2006. Transit managers are predicting growth of 5 percent or more this year, the largest increase in at least a decade.

“If we are in a recession or economic downturn, we should be seeing a stagnation or decrease in ridership, but we are not,” said Daniel Grabauskas, general manager of the Massachusetts Bay Transportation Authority, which serves the Boston area. “Fuel prices are without question the single most important factor that is driving people to public transportation.”

Some cities are seeing spectacular gains. The Charlotte Area Transit System, which has a new light rail line, reported that it logged more than two million trips in February, up more than 34 percent from February 2007.

Caltrain, the commuter rail line that serves the San Francisco Peninsula and the Santa Clara Valley, set a record for average weekday ridership in February of 36,993, a 9.3 increase from 2007, according to its most recent public calculation.

The South Florida Regional Transportation Authority, which operates a commuter rail system from Miami to Fort Lauderdale and West Palm Beach, posted a rise of more than 20 percent in rider numbers this March and April as monthly ridership climbed to 350,000.

“Nobody believed that people would actually give up their cars to ride public transportation,” said Joseph J. Giulietti, executive director of the authority. “But in the last year, and last several months in particular, we have seen exactly that.”

Consumer Federation of America

1620 I Street, N.W., Suite 200 * Washington, DC 20006

February 15, 2008

Eric R. Dinallo
Superintendent of the New York State Insurance Department
25 Beaver Street
New York, New York 10004

Dear Superintendent Dinallo:

On January 24, 2008, the Consumer Federation of America (CFA) forwarded to you our detailed report concluding that property/casualty insurers in 2007 continued to systematically overcharge consumers and reduce the value of home and automobile insurance policies, leading to profits, reserves, and surplus that are at or near record levels (full report available at: www.consumerfed.org/pdfs/2008Insurance_White_Paper.pdf).

The performance of property-casualty insurers in New York has been particularly poor from a consumer perspective. For example, loss ratios in New York have usually ranked well below the national average over the last five years. Twenty years ago, the property-casualty insurance industry nationally paid out over 70 cents in benefits to policyholders for each premium dollar they paid in. Now they are paying out about 60 cents or even less nationally and in New York. The loss ratio for homeowners insurance in New York over the last five years, was an astonishingly low 46 percent, 16 points lower than the national average. Personal auto insurance has also been significantly below the too-low national averages as well, by six to nine points. These numbers obviously indicate that home and auto insurance policies have become a poor value for too many consumers in New York State. A low benefit payout is bad even if the insurers are earning reasonable profits. However, as we document in our study, insurers have been earning excessive profits nationally and are even more profitable in New York.

Consider these startling data, which reveal the plight of New York consumers:

NEW YORK	5-YEARS ENDED 12/31/2006	3-YEARS ENDED 12/31/2006	2006
US-all lines	63%	61%	52%
NY-all lines	60%	57%	53%
US-home	62%	62%	48%
NY-home	46%	45%	43%
US-PP Auto	61%	59%	58%

NY-PP Auto	55%	50%	51%

Twenty-five years ago, New York State was the acknowledged leader in this country in implementing innovative and meaningful standards to protect insurance consumers. Unfortunately, this is no longer the case as New York has become, at best, mediocre in protecting insurance consumers. In recent years, New York has, without legislative changes, moved toward less regulatory oversight of pricing by administrative fiat, essentially converting the prior approval system into a use and file system. This weakened oversight has clearly failed consumers in the state. As you lead the State Insurance Department under a new Administration, we urge you to take immediate steps to rein in overpricing by insurers in New York and to better protect New Yorkers from the abuses cited in our report. It is time for New York to return to its place as a leader in consumer protection.

According to CFA's calculations, the typical American family has paid *at least* $870 too much for property/casualty insurance in the last four years. In our report, we document the excesses in both surplus and reserves held by property/casualty insurers. The Insurance Information Institute (III) says that the industry has "excess capital" of up to $100 billion. Four years ago, III said the capital was "a matter of concern." The current capital situation does not reflect the huge amounts of capital used by insurers in recent years to buy back their own stock, buy businesses, or pay to increase salaries paid to management (Allstate alone has purchased more than $15 billion of its own stock in the last few years). Nor does the $100 billion in excess surplus take into account the $53 billion in reserves that Insurance Services Office (ISO) reports as "redundant." Four years ago, reserves were sufficient to cover the risk that insurers had underwritten, according to a number of accepted measures of industry financial solidity.

Thus, the amount of unwarranted funds collected from consumers that the industry itself has reported is as much as $153 billion. CFA estimates that this amount is probably closer to $175 to $200 billion. However, even using an ultra-conservative estimate of $100 billion in excessive surplus and reserves, Americans have been overcharged by the equivalent of $870 per household in the last four years. Consider this: it would take more than five Hurricane Katrina-sized losses to eliminate just these unwarranted reserves and surplus. Even if such an unlikely series of losses occurred, the insurance industry would still be extremely safe financially and consumers would still be paying rates that were excessive.

As the above table reveals, in New York the five-year loss ratio from 2002 to 2006, for all property/casualty lines of insurance was 60 percent, three points lower than the national average of 63 percent. New York was also below the national averages when looking at the three-year data, but was one point higher than the national average in 2006 (an excessively profitable year nationally). The results for homeowners insurance over the last five years were much worse. Loss rations in New York, at 46 percent, were16 points lower than the national average and were also lower over the last three years or in 2006 alone for private passenger car insurance, New York was six to nine points below the national averages for all periods studied. It is important to note that this was a period of excessive returns nationally in the auto line.

It is very troubling that regulators in New York, once a leader in consumer protection in the insurance arena, have allowed insurers to overprice policies and underpay claims in recent years. New York regulators also ignored calls for reform proposed by the New York City Comptroller in an important report entitled "Highway Robbery: The High Cost of Automobile

Insurance in New York," issued in October 2006.

CFA calls on you to take immediate action to end the excessive rates being charged in New York. We would appreciate knowing about any plans you have to accomplish this goal by March 30, 2008.

Sincerely,

J. Robert Hunter
Insurance Director