Statement by Elizabeth Heck - June 28, 2016
Public Hearing at the New York State Insurance Department
In New York City on a Proposed Workers' Compensation Rate Increase

Members of the Hearing Committee, thank you for the opportunity to make a statement at this hearing with regard to the proposed workers' compensation rate filing.

I am Elizabeth Heck, President and Chief Executive Officer of Greater New York Mutual Insurance Company and its wholly owned stock subsidiaries, Insurance Company of Greater New York, Strathmore Insurance Company, and GNY Custom Insurance Company.

Greater New York Mutual is a property and casualty insurance company domiciled in New York State, and was formed in 1927 as the outgrowth of an organization defending liability claims since 1914.

I began my insurance career 30 years ago and have spent the last 15 years at GNY where I have been deeply involved in the workers' compensation line. Prior to being named President in 2010, I was the Company's CFO and responsible for establishing the Company's overall loss reserve position and prepared and analyzed studies to determine rate adequacy for our Company. My company has continuously written workers' compensation since 1952. At times, the workers' compensation line had even been the principal line written by my company, and represented as much as 53% of our direct written premium. Because of inadequate rates which resulted in unprofitable results in this line, we elected to cut back our workers' compensation writings several years ago. When rates were adequate, we provided a viable competitive market for the New York business community.

I respectfully submit that the workers' compensation rate increase filed by the NYCIRB of 9.3% to be effective October 1, 2016 is necessary and essential for the health and well being of the New York State economy, and for the protection of its workers, consumers, and business community. While claim and medical costs have been relatively stable countrywide, they continue to increase in New York State despite efforts to control costs, which places an undue burden on the New York business community and strains the ability of insurance companies operating in New York State to meet the demand for workers' compensation insurance. The extended period of very low interest rates compounds the problem because it is no longer possible for insurance carriers to offset underwriting losses with investment income.

<u>Industry Combined Ratios</u>

The workers' compensation calendar year combined ratios in New York State continue to be unprofitable and lag behind the country-wide average. As a point of reference, the average country-wide combined ratio for private carriers for the five-year period ended 2014 was 110% compared with 123% for New York State. When the very low interest rate environment is factored into the equation, the magnitude is even greater on the bottom line than the reported results. There is a general rule of thumb that a 1% reduction in investment yield requires a 6 point improvement in the combined ratio in order to maintain the same return on equity in workers' compensation. Add that to the reported combined ratios and it is clear that the line does not support itself at the current pricing levels.

The benefit levels have more than doubled since the reforms were enacted during 2007, but those increases have been at a rate that is out of step with premium levels. In addition the elimination of the Special Funds (Re-open Case Fund and Second Injury Fund) adversely impacts loss costs. While these factors are contemplated in the rate filing, the following additional factors should also be considered when determining whether a rate increase is indicated:

1. <u>Medical Costs and Prescription Drugs</u>

Countrywide workers' compensation loss experience continues to be impacted by high medical costs driven by prescription drugs. While the medical trend factors have begun to stabilize, these costs continue to grow at a rate faster than the growth of the consumer price index. The introduction of new and expensive drug therapies and procedures, and greater reliance on those therapies and procedures by physicians has been a major driver of that increasing trend over the years. According to the NCCI, medical costs now comprise close to 60% of total workers' compensation loss costs, whereas 30 years ago, medical comprised only 43% of the total claim. In addition, changes in the way that Medicare evaluates future prescription drug costs with separate analyses and independent review using average wholesale price has increased the value of Medicare set asides which has a direct impact on loss costs.

While the above statistics reflect the general state of the line countrywide, these same factors influence medical costs in New York State. The fee schedule and medical treatment guidelines have helped to standardize treatment for workers' compensation claims in New York, but these guidelines and fee schedule do not apply in all cases. For example, New Jersey providers treating residents of New Jersey are exempt from the fee schedule and application of the guidelines and as a result costs are significantly higher than the cost for the same procedures in New York. Interestingly, had the injured worker been employed by a New Jersey employer as opposed to a New York employer, that same treatment could have been directed to a PPO network where discounts are negotiated in advance, but because the injury occurred at a New York employer but treatment was in New Jersey, these treatments were not subject to either state's rules.

Pain management continues to be a large contributor to workers compensation loss costs. Treatment for pain management is expensive, often over-prescribed, and generally represents the highest cost drivers as well as the most difficult to control with regard to prescription drugs. These high cost drugs make it difficult to settle a claim because the CMS approved Medicare set aside assumes these expensive prescribed drugs will continue for the claimant's lifetime.

2. Increased time to Classification and Settlement

New York State claim costs have been negatively impacted by the increase in the time that it takes to settle a claim. We believe that a number of factors have contributed to this delay, including the need to have the claimant's prescription drug costs stabilized and the attempt to pursue a total disability finding as opposed to a permanent partial disability settlement to avoid the imposed cap on the number weeks of benefits awarded.

If a claimant's prescription drugs are not yet stabilized and there is an expectation that treatment will subside, calculation of a Medicare set aside could be premature. Moreover, CMS rules require that a change to drug protocol be in place for some period of time prior to assuming that a change is permanent. For example, a doctor may prescribe a high cost narcotic drug for pain to be taken 3 times a day, but the injured worker only takes the drug 1 time per day. CMS assumes that the drug will be taken 3 times per day for the injured worker's lifetime, thereby inflating the claim cost by 66%. In order for CMS to consider the change in protocol, the doctor must rewrite the prescription and it must be in place for two years prior to its acceptance by CMS.

In addition, the permanent partial disability settlement cap, while on the surface should reduce the cost of claims, makes it more attractive to achieve a total disability finding in order to avoid the cap. This process results in an increased number of IME's and other expenses associated with litigation, as well as increase the time it takes to classify a claim. These expenses, as well as the extended time that the claim remains open, has increased the cost of these claims.

3. Fraud Initiatives

My Company works diligently in the investigation and detection of fraudulent claims, and we believe that the New York Fraud bureau has done an excellent job in detecting and prosecuting fraud. As a result of the difficult economic conditions, we have seen an uptick in workers' compensation related fraud which increases overall loss costs. In addition, the cost of fraud detection on the company level is expensive, and adequate rates are needed to afford this expense.

4. Safety Engineering

Safety engineering is an essential, but expensive service, which has proven to be effective in reducing industrial accidents and loss costs. The ultimate beneficiary of these loss control programs are the insured and workers. However, a carrier can afford these measures only if rates are adequate.

For all of the reasons indicated the rate increase is needed to maintain a viable voluntary workers' compensation market in New York State.