STATE OF CONNECTICUT

INSURANCE DEPARTMENT

In the Matter Of:	:	
Application of the National Council on Compensation Insurance, Inc. for a Change in Advisory Pure Premiums and a Change in Assigned Risk Rates for Workers' Compensation Insurance	:	**Docket No. PC 09-87**

MEMORANDUM OF FINDINGS AND RECOMMENDATION

I. INTRODUCTION

The National Council on Compensation Insurance, Inc. ("NCCI") on September 23, 2009 submitted a workers' compensation insurance filing for Advisory Loss Costs and Assigned Risk Rates pursuant to Conn. Gen. Stat. §38a-665(a). The Insurance Department held a public hearing on Monday, October 26, 2009 to consider the filing. In accordance with the authority granted by Conn. Gen. Stat. §38a-16, it was in the public interest to hold a public hearing on this filing to aid in the Department's determination of compliance with standards for the making and use of rates contained in Conn. Gen. Stat. §38a-665, change in rating plan methodology, size and impact of the assigned risk rate change and to allow for public comment. Insurance Commissioner Thomas R. Sullivan appointed the undersigned to serve as hearing officer in this matter.

NCCI's filing for voluntary market loss costs and assigned risk plan rates is proposed to be effective January 1, 2010. The filing proposes revisions of the current loss costs and assigned risk rates that were approved effective January 1, 2009. NCCI proposes an overall +2.5% change for pure premium loss costs and an overall +12.1% change in assigned risk rates. Changes to individual classification costs have been limited to ±20% of the industry group change.

II. FINDINGS

After reviewing the exhibits entered into the hearing record and the testimony given by NCCI representatives and utilizing the Insurance Department's experience, technical competence and specialized knowledge, the undersigned makes the following findings of fact:

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1. The proposed change in Advisory Loss Costs reflects the following pure premium level changes:

Industry Group	Voluntary Market Pure Premium Loss Cos Change (%)
Manufacturing	+3.5
Contracting	-2.5
Office & Clerical	+0.7
Goods & Services	-6.3
Miscellaneous	+3.3
Overall Change	**+2.5%**

2. The proposed change in Assigned Risk Market Rates reflects the following rate level changes:

Industry Group	Assigned Risk Plan Rate Change (%)
Manufacturing	+13.2
Contracting	+6.6
Office & Clerical	+10.1
Goods & Services	+16.2
Miscellaneous	+13.0
Overall Change	**+12.1%**

3. The components of the Advisory Loss Costs and Assigned Risk Market Rate changes are comprised of the following elements:

Component	Pure Premium Voluntary Market Change (%)	Assigned Risk Premium Level Change (%)
Experience, Trend and Benefits	+2.2	+2.2
Loss Adjustment Expenses	+0.3	N/A
Expenses	N/A	+9.0
Change in Uncollectible Premium Provision	N/A	+0.6
Removal of Premium Discount A/R	N/A	+4.3
Overall Change	**+2.5%**	**+16.9%**

4. The assessments due from employers for funding the cost of the Workers' Compensation Commission are 3.83% of losses. Insurance carriers pass through these assessments to employers. For the Voluntary Market and the Assigned Risk Market, the assessment rate converted to a percentage of premium is 2.3% of standard premium. The assessment rate for "F" classifications, which provides coverage under the United States Longshore and Harbor Workers' Compensation Act and its extensions, is changing to 7.9% of total losses, with a proposed assessment on assigned risk standard premium and voluntary market standard premium of 4.3%.

5. The filing proposes to increase the maximum payroll for Executive Officers or Members of Limited Liability Companies from $1,200 per week to $1,300 per week.

6. The filing proposes to increase the maximum payroll for Athletic Teams and Carnival—Traveling from $800 per week to $900 per week.

7. The filing for the Assigned Risk Market proposes a 5.2% provision for uncollectible premium.

8. The Practitioner Fee Schedule was revised effective July 15, 2008. NCCI estimates the impact of this change to be 0.9% on medical benefits.

9. The proposed Permissible Loss Ratio for the Assigned Risk Rate filing is 59.31%.

III. DISCUSSION AND RECOMMENDATIONS

A. Overall Loss Costs and Assigned Risk Rates

Conn. Gen. Stat. §38a-665 establishes the standards, methods and criteria for the making and use of workers' compensation insurance rates in Connecticut. Conn. Gen. Stat. §38a-665 provides that no rates shall be excessive or inadequate, nor shall they be unfairly discriminatory. Conn. Gen. Stat. §38a-665(b) provides that consideration shall be given, to the extent possible, to: past and prospective loss experience; reasonable margin for profit and contingencies; past and prospective expenses both countrywide and those specially applicable to this state; investment income earned or realized both from unearned premium and loss reserve funds; and other relevant factors, including judgment factors.

The overall cost levels are increasing for the assigned risk rates and for the advisory loss costs. The cost levels for this filing are based on Connecticut loss experience for policy years 2006 and 2007. NCCI adjusts past losses to current conditions using adjustment methods, which make the magnitude of the change very sensitive to their assumptions. Critical assumptions include those for trend, loss development and experience period. The Department reviewed the assumptions included in these filings for reasonableness, including the econometric forecast values.

Based on the foregoing, it is recommended that:

A. Assigned Risk Uncollectible Premium

NCCI is proposing a 5.2% provision for uncollectible premium for the assigned risk market. The filing states that the uncollectible premium has been approximately 5.2% of the net assigned risk premiums. Last year NCCI proposed a 5% for uncollectible premiums and the Department approved 4.6%.

Increasing this percentage is a disincentive for companies to collect outstanding premiums. Uncollectible premium in the first half of this decade was approximately 4%. In the years 2005 through 2007 the uncollectible premium was approximately 7.2%. The percentage should be decreased to 4%. This reduction in the uncollectible percentage should be an incentive for companies to collect outstanding premiums. Some premiums can never be collected and the 4% provides for this.

B. NCCI Administration & Servicing Carrier Other Expenses

NCCI is proposing this increased from 4.87% to 5.50%. With the decrease in the assigned risk market and the poor economy this expense should not be increased by this amount. Many companies have seen reductions in their staff and income while expenses are still rising. We have heard that most companies spread the work out when a person leaves. Considering the reduction in the assigned risk market and the poor economy and the rising expenses this increase should be 5.20%.

C. Change in Statewide Average Weekly Wage

The State Labor Commissioner determined effective October 1, 2009 that the average weekly earning of all employees in Connecticut will be $1,138 a .03% decrease from the prior year.

In the current filing, the NCCI estimates are slightly higher than the actual wage figures. Using the NCCI estimates produced an impact of 0.3% increase in the Maximum Weekly Benefit. Using the actual wages produce an impact of 0.2%. The actual impact should be used.

D. Maximum Payroll for Executive Officers or Members of Limited Liability Companies

The filing proposes to increase the maximum payroll for Executive Officers or Members of Limited Liability Companies from $1,200 per week to $1,300 per week. In the late 1970's, NCCI introduced a formula for the determination of the maximum remuneration for executive officers. The purpose of the formula was to be responsive to the state's economy and to eliminate the need for periodic adjustments. This NCCI formula was disapproved and no adjustments were made to the maximum payroll until 2006. Two years ago the maximum payroll was increased to $1,000 per week and last year it was increased to $1,200 per week.

The Department believes that the maximum payroll for Executive Officers or Members of Limited Liability Companies should be approximately that of partners and sole proprietors. Partners and Sole Proprietors are charged an annual payroll of $63,500, which is equal to $1,221 per week. The increase to $1,300 per week payroll for Executive Officers or Members of Limited Liability Companies produces an annual payroll of $67,600. This increase in the per week payroll results in the maximum payroll being only slightly more than for partners and sole proprietors. The Department recommends that the payroll for Executive Officers or Member of Limited Liability Companies be increased to $1,300 per week for 2009.

E. Maximum Payroll for Athletic Teams and Carnival—Traveling

NCCI is proposing to increase the current maximum payroll for Athletic Teams and Carnival—Traveling from $800 per week to $900 per week.

The maximum payroll had not changed for these classes in a number of years. For the last three years the weekly payroll has been increased by $100. In the late 1970's NCCI introduced a formula for the determination of the maximum remuneration for these classes. The purpose of the formula was to be responsive to the state's economy and to eliminate the need for periodic adjustments. That formula was not approved and the maximum remained at five hundred dollars. Three years ago it was increased to $600 and since then each year it was increased $100 a week. The maximum payroll should continue to be gradually increased for these classes. To temper the effect on employers with these classes, the increase should be no more than $100.

F. Change in Rating Plan Methodology

NCCI is making three changes to its class ratemaking methods. These changes relate to:

- How losses are developed
- How losses are limited
- How losses above the limit are spread to other classes.

Change to loss development - claims will be classified as Not-Likely-To-Develop or as Likely-To-Develop.

Change to loss limitation - NCCI proposes that all claims be limited to $500,000.

Change to excess loss spreading – NCCI's revised method for spreading the excess losses involves the use of Excess Ratios which vary by Hazard Group.

G. <u>Removal of Discount Program</u>

NCCI is proposing to remove the premium discount for Assigned Risk policies. In the filing NCCI states this is intended to:

- make the A/R market more self funded
- alleviate the burden on voluntary market writers
- foster further depopulation of the AR market

In the filing NCCI also stated that many assigned risks have poor safety records or are engaged in very hazardous operations.

The residual market expiration list on 10/13/2009 had:
9,389 CT policies
732 CT policies with premiums between 5,500 and 199,999.
210 CT policies with a mod of 1.01 or higher.

The total number of assigned risk policies:

2006	2007	2008	2009*
15,275	14,347	13,094	9,389

*(residual market expiration list 10/13/09)

Of the policies that would receive premium discounts only 28.7% have debit modifications. The majority of policies have modifications less than 1.01 or no modifications. Considering that 71.3% do not have debit modifications we would assume most are risks with hazardous operations. It would not be fair to take away premium modification from an account because it is engaged in a hazardous operation.

The total premiums of assigned risk policies:

2006	2007	2008
$46,100,598	$38,759,165	$31,350,047

Between 2006 and 2008 there has been:
Reduction in policies of over 2,000
Reduction in premiums of over $14,000,000

The A/R market has seen depopulation without taking away the discount program.

RECOMMENDATIONS

On the basis of the foregoing Facts and Discussion, it is recommended to the Commissioner that the following orders be entered, to wit:

A. The 4.6% for uncollectible premiums for assigned risk be changed to 4.0%.

B. NCCI Administration & Servicing Carrier Other Expenses approve an increase
to 5.20%.

C. Disapprove the removal of the premium discount for assigned risk policies.

D. Change in Statewide Average Weekly Wage – change the impact from 0.3% to 0.2%.

E. Approve the proposed increase in the maximum payroll for Executive Officers or Members of Limited Liability Companies from $1,200 per week to $1,300 per week.

F. Approve the proposed increase in the maximum payroll for Athletic Teams and Carnival—Traveling from $800 per week to $900 per week.

G. Approve the proposed Workers Compensation Commission industrial classification assessment fund rate to 2.3% of standard premium and "F" industrial classification assessment fund rate to 4.3% of standard premium for voluntary market and assigned risk market insurers for policies effective on or after January 1, 2010.

H. Waive the thirty (30) day advance filing requirement set forth in Conn. Gen. Stat. §38a-676(b) for filings received prior to January 1, 2010 in order to allow for the adoption of the change in advisory pure premium loss costs effective January 1, 2010.

Dated at Hartford, Connecticut, this 4 day of November, 2009.

Thomas J. Taggart
Hearing Officer