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**Testimony of Tyson Slocum, Director
Public Citizen's Energy Program**

**Before the U.S. House Committee on Government Reform, Subcommittee on
Energy & Resources**

**Keeping the Fuel Flowing from the Gulf: Are We Prepared for the Hurricane
Season?**

Thank you, Mr. Chairman and members of the Committee on Government Reform, Subcommittee on Energy & Resources for the opportunity to testify. My name is Tyson Slocum and I am Director of Public Citizen's Energy Program. Public Citizen is a 35-year old public interest organization with over 100,000 members nationwide. We represent consumer interests through research, public education and grassroots organizing.

I last testified before this Committee in September 2005 on how the lack of adequate regulation in America's natural gas markets contributes to higher prices.¹ In February 2006 I testified before the U.S. Senate Judiciary Committee on how recent oil company mergers have diminished competition, leading to higher prices for consumers.²

With roughly twenty-five percent of the nation's domestic crude oil and 20 percent of the natural gas domestic production obtained from the Gulf of Mexico³, and nearly 40 percent of America's refining capacity located on the Gulf Coast, a significant share of our energy resources remain vulnerable to hurricanes.

But the price spikes following last summer's hurricanes were not completely justified by the damage wrought by these storms. In fact, the price increases were just another example in the longer-term trend of high prices and huge energy company profits that stem in part to uncompetitive markets. The Federal Trade Commission has contributed to the problem by allowing too many mergers and taking a stance too permissive to anti-competitive practices, as evidenced by the conclusions in its most recent investigation (for example, finding evidence of

¹ www.citizen.org/documents/Natural%20Gas%20Testimony.pdf

² www.citizen.org/documents/senatetestimony06.pdf

³ http://tonto.eia.doe.gov/oog/special/eia1_katrina.html

price-gouging by oil companies but explaining it away as profit maximization strategies, and opposing federal price-gouging statutes).⁴

Congress can follow Public Citizen's five-point plan to reform America's energy markets and promote sustainable alternatives to our reliance on fossil fuel:

- Implement a windfall profits tax, close loopholes allowing oil companies to escape paying adequate royalties and dedicate the revenues to financing clean alternative energy, energy efficiency, mass transit and rebates targeted to moderate- and low-income consumers.
- Strengthen anti-trust laws by empowering the Federal Trade Commission to crack down on unilateral withholding and other anti-competitive actions by oil companies.
- Establish a Strategic Refining Reserve (financed by a windfall profits tax on oil companies) to complement America's Strategic Petroleum Reserve.
- Re-regulate energy trading exchanges to restore transparency.
- Improve fuel economy standards to reduce gasoline demand.

Recent Mergers Create Uncompetitive Markets

Although the U.S. is the third largest oil producing nation in the world⁵—producing more oil than Iran, Kuwait and Qatar *combined*—we consume 25% of the world's oil every day, forcing us to import oil.

Sixty percent of the oil consumed in America is used as fuel for cars and trucks. Ten percent is for residential home heating oil, with the remainder largely for various industrial and agricultural processes (only 1.2% is to fuel electric power).⁶

Middle Eastern OPEC nations supply only 14% of America's oil and gas. Other OPEC nations—Indonesia, Nigeria and Venezuela—supply 13%, and non-OPEC nations such as Canada, Mexico, Norway and England provide 31% of our oil and gas needs.⁷

So it isn't so much an OPEC oil cartel, but rather a corporate cartel that should concern policymakers. Consider that the top five oil companies produce 9.9 million barrels of oil a day—more than Saudi Arabia's export of 8.73 million barrels of oil a day.

According to the U.S. Government Accountability Office, over 2,600 mergers have been approved in the U.S. petroleum industry since the 1990s. In just the last few years, mergers between giant oil companies—such as Exxon and Mobil, Chevron and Texaco, Conoco and Phillips—have resulted in just a few companies controlling a significant amount of America's gasoline, squelching competition. And the mergers continue unabated as the big just keep getting

⁴ www.ftc.gov/reports/060518PublicGasolinePricesInvestigationReportFinal.pdf

⁵ www.eia.doe.gov/emeu/cabs/topworldtables1_2.html

⁶ *Adjusted Sales of Distillate Fuel Oil by End Use in the U.S., 2004*, http://tonto.eia.doe.gov/dnav/pet/pet_cons_821dsta_dcu_nus_a.htm

⁷ *Net Imports of Crude Oil and Petroleum Products in the United States by Country, 2004*, www.eia.doe.gov/pub/oil_gas/petroleum/data_publications/petroleum_supply_annual/psa_volume1/current/pdf/table_29.pdf

bigger: in August 2005 ChevronTexaco acquired Unocal, and in December 2005 ConocoPhillips acquired Burlington Resources. A number of independent refineries have been closed, some due to uncompetitive actions by larger oil companies, further restricting capacity. As a result, consumers are paying more at the pump *than they would if they had access to competitive markets* and five oil companies are reaping the largest profits in history. Since 2001, the six largest oil refining companies operating in America—ExxonMobil, ConocoPhillips, ChevronTexaco, Valero, Shell and BP—have recorded \$350 *billion* in profits⁸. While of course America's tremendous appetite for gasoline plays a role, uncompetitive practices by oil corporations are a cause—more so than OPEC or environmental laws—of high gasoline prices around the country.

When communicating to the general public and lawmakers, oil companies downplay these record earnings by calculating profits differently when they communicate with Wall Street and shareholders. When speaking to lawmakers and the general public, the oil industry highlights the small profit margins (typically around 8 to 10 percent) that measuring net income as a share of total revenues produces.

But that's not the measurement ExxonMobil and other energy companies use when talking to investors and Wall Street. For example, here's an excerpt from the company's 2005 annual report: "ExxonMobil believes that return on average capital employed (ROCE) is the most relevant metric for measuring financial performance in a capital-intensive business such as" petroleum.⁹

ExxonMobil's 2005 10-k shows that that company's global operations enjoyed a 30.9 percent rate of return on average capital employed. And the company's rate of profit in the U.S. was even higher: domestic drilling provided a 46.0 percent rate of return on average capital employed, while domestic refining returned 58.8 percent.¹⁰ The company is making its biggest profit margins off the U.S. market.

The oil industry has also been falsely using the weather as an excuse for their record profits. Oil and gasoline prices—and oil company profits—were rising long before Hurricane Katrina wreaked havoc. U.S. gasoline prices jumped 23% from June 6 to Aug. 22 (Katrina made landfall at New Orleans on August 29).¹¹

Indeed, margins for U.S. oil refiners have been at record highs. In 1999, U.S. oil refiners enjoyed a 22.8 cent margin for every gallon of gasoline refined from crude oil. By 2004, they were enjoying a 40.8 cent margin for every gallon of gasoline refined, a 79% jump.¹² And, according to industry analysts, those margins have soared even higher in 2005, to 99 cents on each gallon sold.¹³

⁸ Through the first quarter of 2006.

⁹ www.exxonmobil.com/corporate/files/corporate/sar_2005.pdf, page 19.

¹⁰ www.sec.gov/Archives/edgar/data/34088/000119312506040951/d10k.htm

¹¹ http://tonto.eia.doe.gov/dnav/pet/hist/mg_tt_usw.htm

¹² *Refiner Sales Prices and Refiner Margins for Selected Petroleum Products, 1988-2004*, www.eia.doe.gov/emeu/aer/pdf/pages/sec5_53.pdf

¹³ Justin Blum, "Gas Profit Guzzlers," *The Washington Post*, September 25, 2005, Page F01.

Faced with these facts, Congress and the White House instead recently passed energy legislation that does nothing to address any of the fundamental problems plaguing America's energy policies—after all, if it did, why are having this hearing today? The House voted to approve HR 6, the “comprehensive” energy bill, by a vote of 275 to 156¹⁴, even though the only “comprehensive” aspect of the legislation is the \$5 billion in subsidies to oil companies.¹⁵ The only possible explanation for why Congress would bestow these subsidies on oil companies are the \$59 million in campaign contributions by the oil industry to Congress and the White House since 2001, with 81% of that total going to Republicans.¹⁶ In addition, the oil and natural gas industry has spent \$258.5 million lobbying Congress and the Executive Branch over that same time period.¹⁷

Environmental regulations are not restricting oil drilling in the United States. An Interior Department study concludes that federal leasing restrictions—in the form of wilderness designations and other leasing restrictions—completely block drilling of only 15.5% of the oil in the five major U.S. production basins on 104 million acres stretching from Montana to New Mexico. While only 15.5% is totally off-limits, 57% of America's oil reserves on federal land are fully available for drilling, with the remaining 27.5% featuring partial limitations on drilling.¹⁸ This report contradicts industry claims that environmental laws are squelching production.

The consolidation of downstream assets—particularly refineries—plays a big role in determining the price of a gallon of gas. Recent mergers have resulted in dangerously concentrated levels of ownership over U.S. oil refining.

In 1993, the five largest U.S. oil refining companies controlled 34.5% of domestic oil refinery capacity; the top ten companies controlled 55.6%. By 2004, the top 5—ConocoPhillips, Valero, ExxonMobil, Shell and BP—controlled 56.3% and the top ten refiners controlled 83%. As a result of all of these recent mergers, the largest 5 oil refiners today control more capacity than the largest 10 did a decade ago. This dramatic increase in the control of just the top five companies makes it easier for oil companies to manipulate gasoline by intentionally withholding supplies in order to drive up prices. Because most of the largest companies are also vertically integrated, they enjoy significant market share in oil drilling and retail sales.

ExxonMobil's new CEO told the Wall Street Journal that because American fuel consumption will continue growing for the next decade, they have no plans to build any new refineries:

Exxon Mobil Corp. says it believes that, by 2030, hybrid gasoline-and-electric cars and light trucks will account for nearly 30% of new-vehicle sales in the U.S. and Canada. That surge is part of a broader shift toward fuel efficiency that Exxon thinks will cause fuel consumption by North American cars and light trucks to peak around 2020—and then start to fall. “For that reason, we wouldn't build a grassroots refinery” in the U.S.,

¹⁴ <http://clerk.house.gov/evs/2005/roll445.xml>

¹⁵ www.citizen.org/cmep/energy_enviro_nuclear/electricity/energybill/2005/articles.cfm?ID=13980

¹⁶ www.opensecrets.org/industries/indus.asp?Ind=E01

¹⁷ www.opensecrets.org/lobbyists/indusclient.asp?code=E01&year=2005

¹⁸ *Scientific Inventory of Onshore Federal Lands' Oil and Gas Resources and Reserves and the Extent and Nature of Restrictions or Impediments to Their Development*, BLM/WO/GI-03/002+3100, January 2003, www.doi.gov/news/030116a.htm; www.blm.gov/nhp/spotlight/epca/EPCA_fact_sheet_draft06.htm

Rex Tillerson, Exxon's chairman and chief executive, said in a recent interview. Exxon has continued to expand the capacity of its existing refineries. But building a new refinery from scratch, Exxon believes, would be bad for long-term business.¹⁹

ExxonMobil and other oil companies are not building new refineries because it is in their financial self interest to keep refining margins as tight as possible, as that translates into bigger profits. As a result of this strategy of keeping refining capacity tight, energy traders in New York are pushing the price of gasoline higher, and then trading the price of crude oil up to *follow* gasoline:

"Last time, Mother Nature intervened in the market [in the form of Hurricane Katrina]," [Larry] Goldstein [president of New York-based Petroleum Industry Research Foundation] said. "This time, prices are being driven by market forces," with gasoline pulling crude and other forms of fuel higher, he says.²⁰

In March 2006, U.S. commercial inventories of crude oil surpassed 342 million barrels—the highest level since March 1999.²¹ Despite this record domestic surplus, energy traders continue to push the price of crude oil up.

Even the U.S. Federal Trade Commission found widespread evidence of anti-competitive practices in its March 2001 *Midwest Gasoline Price Investigation*:²²

The completed [FTC] investigation uncovered no evidence of collusion or any other antitrust violation. In fact, the varying responses of industry participants to the [gasoline] price spike suggests that the firms were engaged in individual, not coordinated, conduct. Prices rose both because of factors beyond the industry's immediate control and because of conscious (but independent) choices by industry participants... each industry participant acted unilaterally and followed individual profit-maximization strategies... It is not the purpose of this report - with the benefit of hindsight - to criticize the choices made by the industry participants. Nonetheless, a significant part of the supply reduction was caused by the investment decisions of three firms... One firm increased its summer-grade RFG [reformulated gasoline] production substantially and, as a result, had excess supplies of RFG available and had additional capacity to produce more RFG at the time of the price spike. This firm did sell off some inventoried RFG, but it limited its response because selling extra supply would have pushed down prices and thereby reduced the profitability of its existing RFG sales. An executive of this company made clear that he would rather sell less gasoline and earn a higher margin on each gallon sold than sell more gasoline and earn a lower margin. Another employee of this firm raised concerns about oversupplying the market and thereby reducing the high market prices. A decision to limit supply does not violate the antitrust laws, absent some agreement among firms. Firms that withheld or delayed shipping additional supply in the face of a price spike did not violate the antitrust laws. In each instance, the firms chose strategies they thought would maximize their profits.

Although federal investigators found ample evidence of oil companies intentionally withholding supplies from the market in the summer of 2000, the government has not taken any action to prevent recurrence.

¹⁹ Jeffrey Ball, "As Gasoline Prices Soar, Americans Resist Major Cuts in Consumption," *The Wall Street Journal*, May 1, 2006.

²⁰ Bhushan Bahree, "Oil Prices Show No Sign of Slowing," *The Wall Street Journal*, April 10, 2006.

²¹ <http://tonto.eia.doe.gov/dnav/pet/hist/mcestus1m.htm>

²² www.ftc.gov/os/2001/03/mwgasrpt.htm

A congressional investigation uncovered internal memos written by major oil companies operating in the U.S. discussing their successful strategies to maximize profits by forcing independent refineries out of business, resulting in tighter refinery capacity. From 1995-2004, 97% of the more than 928,000 barrels of oil per day of capacity that has been shut down were owned by smaller, independent refiners.²³ Were this capacity to be in operation today, refiners could use it to better meet today's reformulated gasoline blend needs.

Strengthening anti-trust enforcement to limit the ability of oil companies to engage in such anti-competitive behavior will clearly benefit consumers. In addition, Congress should also consider the merits of a Strategic Refinery Reserve (SRR), to complement the successful Strategic Petroleum Reserve. Such an SRR could be built and operated by the Department of Energy, and the refined products produced at the facility could be placed in reserve to be released in times of natural disasters or price spikes. An SRR would prove useful in diminishing the ability of oil companies to engage in unilateral withholding, as the SRR could be used to release supplies to satisfy the needs of consumers, thereby lowering prices.

The FTC must also examine the concentration of ownership over refined product and crude oil pipelines. For example, the Colonial Pipeline system, which runs over 5,000 miles from Texas to New Jersey where much of the retail gas price spikes were concentrated along its route in the aftermath of Hurricane Katrina, is controlled by many of the major oil companies: Koch (28.09 percent), ChevronTexaco-Unocal (23.44 percent), ConocoPhillips-Burlington Resources (16.55 percent), Shell Oil (16.12 percent) and Citgo (15.8 percent).

FTC Not Adequately Protecting Consumers

The FTC consistently allows refining capacity to be controlled by fewer hands, allowing companies to keep most of their refining assets when they merge, as a recent overview of FTC-approved mergers demonstrates.

The major condition demanded by the FTC for approval of the August 2002 ConocoPhillips merger was that the company had to sell two of its refineries—representing less than 4% of its domestic refining capacity. Phillips was required only to sell a Utah refinery, and Conoco had to sell a Colorado refinery. But even with this forced sale, ConocoPhillips remains the largest domestic refiner, controlling refineries with capacity of 2.2 million barrels of oil per day—or 13 percent of America's entire capacity.

The major condition the FTC set when approving the October 2001 ChevronTexaco merger was that Texaco had to sell its shares in two of its joint refining and marketing enterprises (Equilon and Motiva). Prior to the merger, Texaco had a 44% stake in Equilon, with Shell owning the rest; Texaco owned 31% of Motiva, with the national oil company of Saudi Arabia (Saudi Aramco) also owning 31%, and Royal Dutch Shell owning the remaining 38%. The FTC allowed Shell to purchase 100% of Equilon, and Shell and Saudi Aramco bought out Texaco's share of Motiva, leaving Motiva a 50-50 venture between Shell and Saudi Aramco.

²³ Energy Information Administration Form EIA-820, *Annual Refinery Report*.

Prior to the merger, Texaco's share of Equilon and Motiva refinery capacity equaled more than 500,000 barrels of oil per day—which was simply scooped up by another member of the elite top five companies, Shell. Had the FTC forced Texaco to sell its share to a smaller, independent company, the stranglehold by the nation's largest oil companies could have been weakened.

As a condition of the 1999 merger creating ExxonMobil, Exxon had to sell some of its gas retail stations in the Northeast U.S. and a single oil refinery in California. Valero Energy, the nation's fifth largest owner of oil refineries, purchased these assets. So, just as with the ChevronTexaco merger, the inadequacy of the forced divestiture mandated by the FTC was compounded by the fact that the assets were simply transferred to another large oil company, ensuring that the consolidation of the largest companies remained high.

The sale of the Golden Eagle refinery was ordered by the FTC as a condition of Valero's purchase of Ultramar Diamond Shamrock in 2001. Just as with ExxonMobil and ChevronTexaco, Valero sold the refinery, along with 70 retail gas stations, to another large company, Tesoro. But while the FTC forced Valero to sell one of its four California refineries, the agency allowed the company to purchase Orion Refining's only refinery in July 2003, and then approved Valero's purchase of the U.S. oil refinery company Premcor. This acquisition of Orion's Louisiana refinery and Premcor defeats the original intent of the FTC's order for Valero to divest one of its California refineries.

The recent FTC investigation²⁴ downplays the impact on competition from allowing such consolidation, and stands in stark contrast to the May 2004 conclusions reached by the U.S. Government Accountability Office report²⁵ which found that recent mergers in the oil industry have directly led to higher prices. It is important to note that this GAO report severely *underestimates* the impact mergers have on prices because their price analysis *stops* in 2000—long before the mergers that created ChevronTexaco-Unocal, ConocoPhillips-Burlington Resources, and Valero-Ultramar/Diamond Shamrock-Premcor.

Over-the-Counter Energy Disclosure is Underegulated

Contracts representing hundreds of millions of barrels of oil are traded every day on the London and New York trading exchanges. An increasing share of this trading, however, has been moving off regulated exchanges such as the New York Mercantile Exchange (NYMEX) and into unregulated Over-the-Counter (OTC) exchanges. The Bank of International Settlements estimates that in 2004, the global OTC market has grown to over \$248 *trillion*. Growth in global OTC derivatives markets has averaged 31.6% since 1990.²⁶ Traders operating on exchanges like NYMEX are required to disclose significant detail of their trades to federal regulators. But traders in OTC exchanges are not required to disclose such information allowing companies like Goldman Sachs, Morgan Stanley and hedge funds to escape federal oversight and more easily engage in manipulation strategies.

²⁴ www.ftc.gov/reports/060518PublicGasolinePricesInvestigationReportFinal.pdf

²⁵ *Effects of Mergers and Market Concentration in the U.S. Petroleum Industry*, GAO-04-96, www.gao.gov/new.items/d0496.pdf

²⁶ www.financialpolicy.org/fpfs25.htm

A recent congressional investigation concluded that “crude oil prices are affected by trading not only on regulated exchanges like the NYMEX, but also on unregulated OTC markets that have become major trading centers for energy contracts and derivatives. The lack of information on prices and large positions in OTC markets makes it difficult in many instances, if not impossible in practice, to determine whether traders have manipulated crude oil prices.”²⁷

And these energy traders happily boast in public about how they're price-gouging Americans, as a recent Associated press article makes clear: energy “traders who profited enormously on the supply crunch following Hurricane Katrina cashed out of the market ahead of the long weekend. ‘There are traders who made so much money this week, they won't have to punch another ticket for the rest of this year,’ said Addison Armstrong, manager of exchange-traded markets for TFS Energy Futures.”²⁸

Public Citizen has supported efforts to re-regulate energy trading by subjecting OTC markets to tougher oversight. But the latest such effort, an amendment to the energy bill, was rejected by the Senate by a vote of 55-44 in June 2003.²⁹

But manipulation occurs even on the regulated exchanges. Just last month, the U.S. Commodity Futures Trading Commission issued a civil penalty against Shell Oil for “non-competitive transactions” in U.S. crude oil futures markets.³⁰

The CFTC has a troublesome streak of “revolving door” appointments and hiring which may further hamper the ability of the agency to effectively regulate the energy trading industry. In August 2004, CFTC chairman James Newsome left the Commission to accept a \$1 million yearly salary as president of NYMEX, the world's largest energy futures marketplace. Just weeks later, Scott Parsons, the CFTC's chief operating officer, resigned to become executive vice-president for government affairs at the Managed Funds Association, a hedge-fund industry group that figures prominently in energy derivatives markets. Such prominent defections hampers the CFTC's ability to protect consumers.

Why We Need a Windfall Profits Tax

In most industries, when the main component (crude oil) of a product (gasoline) skyrockets in price, those higher costs eat into profit margins. But not the oil industry, because ExxonMobil and the other major oil companies operate as a type of monopoly, with massive oil production, refining and retail marketing operations.

House Speaker J. Dennis Hastert recently scolded the industry's profits, saying “It is time to invest in America...we expect oil companies to do their part to help ease the pain American families are feeling from high energy prices.”³¹

²⁷ *U.S. Strategic Petroleum Reserve: Recent Policy Has Increased Costs to Consumers But Not Overall U.S. Energy Security*, www.access.gpo.gov/congress/senate/senate12cp108.html

²⁸ The Associated Press, September 2, 2005.

²⁹ www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=108&session=1&vote=00218

³⁰ www.cftc.gov/opa/enf06/opa5150-06.htm

³¹ Carl Hulse, “Republicans Ask Oil Industry for Help with Fuel Prices,” *The New York Times*, October 26, 2005.

But only one company—Citgo—has bothered to heed Hastert's call. The company, a U.S. subsidiary of the Venezuelan state oil company, has dedicated tens of millions of dollars for low income American families.

With other oil companies failing to take action to protect America's middle- and low-income families from the high energy prices that fuel their profits, Public Citizen supports a Windfall Profits Tax. Proceeds from such a tax could not only provide refunds for consumers to help protect them from high home heating prices this winter, but the tax could be used to finance important investments. Proceeds from the tax could fund rebates for homeowners to upgrade their insulation, replace drafty windows and trade in their old appliances for more energy efficient ones. Revenues from the tax could be used to encourage consumers to buy more fuel efficient, hybrid or alternative fuel cars. And such a tax on oil companies could also be directed to state and local governments to fully fund public transportation. For example, in 2003 (the last year for which data is available), governments at the Federal, state and local levels spent a combined \$23.2 billion in subsidies for public transit systems.³² Compare that with the \$36 billion earned last year by ExxonMobil alone. Clearly, oil companies can afford to contribute more to investing in solutions to America's energy problems than they currently are.

Naysayers argue the Windfall Profits Tax didn't work the last time we tried it. The Windfall Profits Tax of 1980-88 was ineffective not because of the tax itself, but because oil prices fell shortly after enactment of the tax due to global events unrelated to U.S. tax policy. Congress enacted the Windfall Profits Tax in 1980 after U.S. oil company profits surged following the Iranian Revolution and the resulting Iran-Iraq war, which caused oil prices to increase from \$14/barrel in 1979 to \$35/barrel by January 1981. But after 1981, crude oil prices steadily decreased until completely bottoming out in 1986-87 as demand slackened and as other oil producing countries increased their output. As the value of the commodity subject to tax (oil) fell, the effectiveness of the tax was diminished.

But that was then. The Wall Street Journal recently concluded that "a crash looks unlikely now, both because supplies remain tight and because of the large volumes of money that investors are pouring into oil markets."³³

In addition to a Windfall Profits Tax, Congress needs to reform the royalty system imposed on companies drilling for oil and natural gas on public land. One-third of the oil and natural gas produced in the United States comes from land owned by the taxpayers, but royalty payments by oil companies have not been keeping up with the explosion in energy prices and profits enjoyed by the industry. A recent investigation³⁴ concluded that while energy "prices nearly doubled from 2001 to 2005, the \$5.15 billion in gas royalties for 2005 was less than the \$5.35 billion in 2001. When oil and gas are combined, royalties were about \$8 billion in 2005, almost the same as in 2001." Taxpayers must be fairly compensated for allowing oil companies the privilege of extracting resources from federally-owned land.

³² www.apta.com/research/stats/factbook/

³³ Bhushan Bahree and Ann Davis, "Oil Settles Above \$70 a Barrel, Despite Inventories at 8-year High," April 18, 2006.

³⁴ Edmund L. Andrews, "As Profits Soar, Companies Pay U.S. Less for Gas Rights," *The New York Times*, January 23, 2006.

Some states are addressing higher gasoline prices by suspending gas taxes. Public Citizen does not support such a move, as it not only fails to address the underlying market problems causing higher prices, but reduces revenues that states need to help finance solutions such as mass transit.

Raise Fuel Economy Standards to Lower Our Oil Consumption

Due to increasing numbers of gas-guzzling SUVs on America's roads and the absence of meaningful increases in government-set fuel economy standards, America's fuel economy standards are lower today than a decade ago.

The Environmental Protection Agency found that the average fuel economy of 2005 vehicles is 21 miles per gallon (mpg), compared to 22.1 mpg in 1988—a 5% decline.³⁵ This drop is attributable to the fact that fuel economy standards haven't been meaningfully increased since the 1980s. And sales of fuel inefficient SUVs and pickups have exploded: in 1987, 28% of new vehicles sold were light trucks, compared to 50% in 2005.

The National Highway Traffic Safety Administration isn't doing enough under the Energy Policy Act to enact the maximum feasible fuel economy increase, and isn't putting enough pressure to challenge manufacturers to do better.

Billions of gallons of oil could be saved if significant fuel economy increases were mandated. Improving fuel economy standards for passenger vehicles from 27.5 to 40 mpg, and for light trucks (including SUVs and vans) from 22.2³⁶ to 27.5 mpg by 2015 (for a combined fleet average of 34 miles per gallon) would reduce our gasoline consumption by one-third. But the U.S. Senate soundly rejected such a move on June 23, 2005 by a vote of 67 to 28.³⁷

Some who oppose improving fuel economy standards claim that raising them will result in American job losses. But how many jobs are being lost from sustained high energy prices caused in part by the failure to stem America's growing oil demand? And recent announcements by GM and Ford to cut 60,000 North American jobs can be directly tied to the companies' loss of market share due to over-investment in SUVs and other fuel-guzzling vehicles, which turn around a fast and sizeable profit but do not sell well in these times of 2- and almost 3-dollar-a-gallon gas prices. Some foreign manufacturers invested in more fuel-efficient vehicles, and have paved the way for a future of improved fuel economy with hybrid vehicles.

³⁵ *Light-Duty Automotive Technology and Fuel Economy Trends: 1975 Through 2005*, EPA420-R-05-001, July 2005, www.epa.gov/otaq/cert/mpg/fetrends/420r05001.pdf

³⁶ On March 31, 2003, the U.S. Department of Transportation issued new light truck fuel economy standards, increasing the standard from 20.7 to 21.0 mpg for Model Year (MY)2005, to 21.6 mpg for MY2006, and to 22.2 mpg for MY2007.

³⁷ www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=109&session=1&vote=00157

**Breakdown of ExxonMobil Profits: US Operations Driving Profitability
In 2005, ExxonMobil's U.S. Operations Outpaced Rest of Company**

	2001	2002	2003	2004	2005
All ExxonMobil Operations					
Net income	\$ 15,320,000,000	\$ 11,460,000,000	\$ 21,510,000,000	\$ 25,330,000,000	\$ 36,130,000,000
Average Capital Employed	88,000,000,000	\$ 88,342,000,000	\$ 95,373,000,000	\$ 107,339,000,000	\$ 116,961,000,000
Return on Capital, Companywide	17.4%	13.0%	22.6%	23.6%	30.9%
US Oil Production Only					
Net income	3,933,000,000	\$ 2,524,000,000	\$ 3,905,000,000	\$ 4,948,000,000	\$ 6,200,000,000
Average Capital Employed	12,952,000,000	\$ 13,264,000,000	\$ 13,508,000,000	\$ 13,355,000,000	\$ 13,491,000,000
Return on Capital, US Oil Production Only	30.4%	19.0%	28.9%	37.0%	46.0%
US Oil Refining Only					
Net income	1,924,000,000	\$ 693,000,000	\$ 1,348,000,000	\$ 2,186,000,000	\$ 3,911,000,000
Average Capital Employed	7,711,000,000	\$ 8,060,000,000	\$ 8,090,000,000	\$ 7,632,000,000	\$ 6,650,000,000
Return on Capital, US Oil Refining Only	25.0%	8.6%	16.7%	28.6%	58.8%

SOURCE: Compiled by Public Citizen's Energy Program <www.citizen.org> from ExxonMobil's 10-k's filed with the SEC

Mergers Concentrate the U.S. Oil Refinery Industry: Changes in Control of Market Share 1993 to 2004

1993		2004	
Company	Market Share	Company	Market Share
Chevron	9.1%	ConocoPhillips-Tosco-Flying J-Big West Oil-Burlington Resources	13.0%
Exxon	6.6%	Valero-Ultramar-Diamond Shamrock-Orion Refining-Premcor-TPI	12.8%
Amoco	6.5%	ExxonMobil-Chalmette	11.9%
Texaco-Star Enterprise	6.2%	Shell-Motiva-Equilon-Pennzoil-Quaker State-Deer Park	9.8%
Mobil	6.0%	BP	8.8%
Top 5 in 1993	34.5%	Top 5 in 2004	56.3%
Shell	4.9%	ChevronTexaco-Unocal	5.9%
BP	4.4%	Citgo-PDV-Lyondell	5.8%
Citgo (PDV)/Lyondell	4.2%	Marathon	5.5%
Arco/Lyondell	3.8%	Sunoco	5.3%
Marathon	3.8%	Koch-Flint Hills	4.5%
Top 10 in 1993	55.6%	Top 10 in 2004	83.3%

Note: Lyondell refinery capacity in 1993 is equally split between two of its equity partners at the time, Citgo and Arco.

SOURCE: Compiled by Public Citizen's Energy Program <www.citizen.org/cmep> from corporate annual reports and U.S. Energy Information Administration data.

Table 3.

The Top 5 Oil Company 2004 Market Share, Profits and Campaign Contributions

Company	Merger Activity	Domestic Oil Refinery Market Share	Profits 2001-06 *	Campaign Contributions 2001 to Present	% to GOP
ConocoPhillips - Burlington Resources	Aug. '02 - Conoco + Phillips merge; Tosco acquired in Sept. '01; 50-50 venture in Flying J; Dec '05 buys Burlington	13.0%	\$ 31,050,000,000	\$ 1,185,227	85%
Valero Energy	2001 - Valero merged with Ultramar/Diamond Shamrock. In July '03, Valero acquired Orion Refining; in August '05 Valero acquired Premcor	12.8%	\$ 7,519,400,000	\$ 1,441,975	80%
ExxonMobil	Nov. '99 - Exxon + Mobil merge	11.9%	\$ 118,150,000,000	\$ 2,411,119	89%
Royal Dutch Shell	Feb. '02 - Acquired Texaco's shares in Equilon and Motiva, so Shell now owns all of Equilon while Motiva is a 50-50 venture with Saudi Aramco; In 2002 Shell Acquired Pennzoil-Quaker State	9.8%	\$ 82,259,000,000	\$ 499,979	62%
BP	April '00 - BP acquires Arco; 1998 BP acquires Amoco	8.8%	\$ 67,829,000,000	\$ 916,036	68%
Total, Top 5		56.3%	\$ 306,807,400,000	\$ 6,454,336	81%
<i>addendum a</i>					
ChevronTexaco - Unocal	Oct. '01 - Chevron + Texaco; Aug '05 buys Unocal	5.9%	\$ 43,077,000,000	\$ 2,014,510	77%
<i>addendum b</i>					
total campaign contributions by entire oil industry from 2001 to present				\$ 59,205,818	81%

* through first quarter 2006

SOURCE: Compiled in February 2006 by Public Citizen's Energy Program <www.citizen.org> based on corporate annual reports; the U.S. Energy Information Administration; and the Center for Responsive Politics.