

**THE STATE OF NEW HAMPSHIRE**

**MERRIMACK, SS**

**SUPERIOR COURT**

**Docket No. 03-E-0106  
In the Matter of the Liquidation of  
The Home Insurance Company**

**LIQUIDATOR'S MOTION FOR APPROVAL  
OF SETTLEMENT AGREEMENT WITH PSE**

Roger A. Sevigny, Commissioner of Insurance for the State of New Hampshire, as Liquidator ("Liquidator") of The Home Insurance Company ("Home"), moves that the Court enter an order in the form submitted herewith approving a Settlement Agreement and Mutual Release ("Settlement Agreement") between Puget Sound Energy, Inc., successor by merger to Washington Natural Gas, Inc. ("PSE"), and the Liquidator. As reasons therefor, the Liquidator states as follows:

1. Home issued two insurance policies to PSE for policy periods between May 1, 1968 and June 1, 1973. Prior to Home's liquidation, PSE commenced a declaratory judgment action (the "Coverage Action") in the Superior Court of the State of Washington, King County, seeking coverage under these policies for environmental pollution liability claims. Upon Home's placement in liquidation, PSE filed twenty-one proofs of claim in the Home liquidation. The proofs of claim seek coverage under the policies for claims, including but not limited to claims for environmental pollution, asserted against PSE. Settlement Agreement at first, third, and fifth Whereas clauses. Affidavit of Peter A. Bengelsdorf in Support of Approval of Settlement Agreement with PSE ("Bengelsdorf Aff.") ¶ 2.

2. The Liquidator and PSE have reached an agreement to resolve the proofs of claim and all matters under the policies, which is reflected in the Settlement Agreement attached as

Exhibit A. It is subject to approval by the Court. Settlement Agreement at sixth Whereas clause and ¶ 1. Bengelsdorf Aff. ¶ 3.

3. The Settlement Agreement provides that the Liquidator will recommend allowance of PSE's proofs of claim in the aggregate amount of \$3,250,000 as a Class II claim under RSA 402-C:44. Settlement Agreement ¶ 2(A). Allowance of the recommended amount as a Class II claim will fully and finally resolve PSE's proofs of claim and all claims under the policies. Id. ¶ 2(B). Distributions based on that allowance will be made at the same intervals and at the same percentages as distributions to other Class II creditors of Home. Id. ¶ 2(C). Bengelsdorf Aff. ¶ 4.

4. The Settlement Agreement is intended to resolve PSE's proofs of claim and all matters relating to the policies. See Settlement Agreement ¶¶ 2(B), 7 (second paragraph). To that end, the Settlement Agreement provides for mutual releases of all claims between Home and PSE arising from or related to proofs of claim or the policies. Id. ¶¶ 5, 6. See also ¶¶ 3, 4. Bengelsdorf Aff. ¶ 5.

5. The Liquidator is not aware of any third party claimants asserting claims under the PSE policies. However, in resolving all matters relating to the proofs of claim and the policies, the Settlement Agreement contemplates denial of any third party claimants' claims in the Home liquidation without prejudice to their claims against PSE. Accordingly, PSE acknowledges in the Settlement Agreement that it is intended to resolve all matters between PSE and the Liquidator/Home relating to the policies, the Coverage Action, and proofs of claim, including asserted rights of third party claimants. Settlement Agreement ¶ 7 (second paragraph). PSE agrees to address, at its sole cost, the claims of claimants asserting claims against PSE as if PSE had no insurance coverage from Home under the policies. Id. PSE agrees to indemnify the

Liquidator and Home against claims arising from the policies. Id. (first paragraph). Bengelsdorf Aff. ¶ 6.

6. The denial of any third party claimants' proofs of claim without prejudice to their claims against PSE will not harm the third party claimants, who will continue to have their full claims against PSE. As noted above, PSE has agreed to address these claims as if it had no insurance coverage from Home under the policies. Settlement Agreement ¶ 7 (second paragraph). Third party claimants' proofs of claim against the insolvent Home, if not denied with this agreement, would release PSE from those claims up to the limits of the policies but only entitle the third party claimants (assuming their claims are allowed) to a presently undetermined percentage distribution at the future date when a distribution is made. See RSA 402-C:40, I; Gonya v. Commissioner, New Hampshire Insurance Dept., 899 A.2d 278, 282, 289 (N.H. 2006) (noting "the inherent uncertainty of any creditor's recovery in a liquidation"). It is not expected that the allowed claims of any third party claimants (or other Class II creditors) will be paid in full. Under the Settlement Agreement, PSE will continue to be fully responsible for any third party claimants' claims against it. See Settlement Agreement ¶ 7 (second paragraph). See Bengelsdorf Aff. ¶ 7.

7. The Settlement Agreement reflects a compromise of the claims asserted in PSE's proofs of claim. It is the result of negotiations involving Home's Claims Department, under the supervision of the Special Deputy Liquidator, which has extensive experience in assessing the exposure presented by environmental pollution claims under Home's insurance policies. The agreed settlement amount is based on careful evaluation and negotiation of coverage obligations under Home's policies respecting the underlying claims against PSE. The Liquidator accordingly recommends approval of the Settlement Agreement and allowance of the \$3,250,000

settlement amount as a Class II claim in accordance with RSA 402-C:45 and RSA 402-C:44.

Bengelsdorf Aff. ¶ 8.

8. The Court has previously approved similar settlement agreements with Cleaver-Brooks, Lucent Technologies, Inc., and AK Steel Corporation. See Order Approving Settlement Agreement with Cleaver-Brooks and Coca-Cola (April 23, 2007); Order Approving Settlement Agreement with Lucent Technologies, Inc. (August 23, 2006); Order Approving Commutation Agreement with Northwestern National Insurance Company and Settlement Agreement and Assignment of Distribution with AK Steel Corporation (March 10, 2006). The Liquidator's negotiation and the Court's approval of such agreements are authorized by the broad authority of the Liquidator to "compound, compromise or in any other manner negotiate the amount for which claims will be recommended to the court," RSA 402-C:45, I, and the authority of the Court to "approve, disapprove or modify any report on claims by the liquidator." RSA 402-C:45, II. It is also an appropriate exercise of the Liquidator's authority ("[s]ubject to the court's control") to "do such other acts . . . as are necessary or expedient for the accomplishment of or in aid of the purpose of liquidation." RSA 402-C:25, XXII.

9. In his Motion for Approval of Commutation with Northwestern National Insurance Company and Settlement Agreement and Assignment of Distribution with AK Steel Corporation ¶¶ 19-23 (February 16, 2006), the Liquidator provided his analysis of New Hampshire law, including RSA 402-C:40 III, as it applies to this type of comprehensive policy coverage compromise and settlement in an insurer liquidation context. That analysis also applies to the proposed Settlement Agreement with PSE.

10. The Liquidator submits that the Settlement Agreement is fair and reasonable and in the best interests of the policyholders and creditors of Home. See Bengelsdorf Aff. ¶ 9.

WHEREFORE, the Liquidator respectfully requests that this Court:

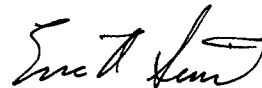
- A. Grant this Motion;
- B. Enter an Order in the form submitted herewith approving the Settlement Agreement, approving the Liquidator's claim recommendation, and allowing PSE's claim as a Class II claim in the amount of \$3,250,000; and
- C. Grant such other and further relief as justice may require.

Respectfully submitted,

ROGER A. SEVIGNY, COMMISSIONER  
OF INSURANCE OF THE STATE OF  
NEW HAMPSHIRE SOLELY AS  
LIQUIDATOR OF THE HOME  
INSURANCE COMPANY,

By his attorneys,  
KELLY A. AYOTTE  
ATTORNEY GENERAL

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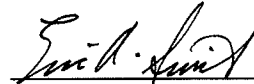
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J. David Leslie  
Eric A. Smith  
Rackemann, Sawyer & Brewster  
One Financial Center  
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May 25, 2007

**Certificate of Service**

I hereby certify that a copy of the foregoing Liquidator's Motion for Approval of Settlement Agreement with PSE, the Affidavit of Peter A. Bengelsdorf, and the Proposed Order, were sent, this 25th day of May, 2007, by first class mail, postage prepaid to all persons on the attached service list.

A handwritten signature in cursive script, appearing to read "Eric A. Smith", is written over a horizontal line.

Eric A. Smith

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

In the Matter of the Liquidation of  
The Home Insurance Company  
Docket No. 03-E-0106

In the Matter of the Liquidation of  
US International Reinsurance Company  
Docket No. 03-E-0112

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**SETTLEMENT AGREEMENT, POLICY BUY-OUT AND MUTUAL RELEASE**

This Settlement Agreement, Policy Buy-Out and Mutual Release (the "Agreement") is made this <sup>5th</sup> day of <sup>April</sup> ~~October~~ <sup>2007</sup> ~~2006~~, by and between Puget Sound Energy, Inc. ("PSE"), successor by merger to Washington Natural Gas, Inc, its parents or subsidiaries, associated, affiliated, owned or controlled companies whenever constituted ("PSE"), on the one hand, and Roger A. Sevigny, Commissioner of Insurance of the State of New Hampshire, solely in his capacity as Liquidator ("Liquidator") of The Home Insurance Company ("Home"), on the other hand. PSE, Liquidator, and Home are hereinafter individually referred to as a "Party" and collectively referred to as the "Parties".

**WHEREAS**, Home issued the following insurance policies to PSE:

<u>Policy Number</u>	<u>Policy Period</u>
HEC 9558422	(5/1/68-6/1/71)
HEC 9919900	(6/1/71-6/1/73)

**WHEREAS**, PSE seeks coverage from Home for claims asserted under the foregoing policies arising from certain environmental pollution liability claims and/or lawsuits;

**WHEREAS**, PSE commenced a declaratory judgment action in the Superior Court of State of Washington, King County seeking, *inter alia*, coverage under the foregoing policies for environmental pollution liability claims (the "Coverage Action");

**WHEREAS**, Home was placed into liquidation effective June 11, 2003, by Order of the Superior Court of the State of New Hampshire, Merrimack County (the "Liquidation Court");

**WHEREAS**, pursuant to the Order of the Liquidation Court, PSE has submitted proofs of claim to Home, for which Home has assigned the following numbers to the PSE Proofs of Claim (as defined below):

INSU702385	INSU701192	INSU701212	INSU701228
INSU275448	INSU701194	INSU701222	INSU701230

INSU473922	INSU701196	INSU701223	INSU701235
INSU701187	INSU701198	INSU701225	INSU701237
INSU701189	INSU701209	INSU701226	INSU701240
INSU701241			

**WHEREAS**, the Parties are desirous of settling all of the claims that were asserted, or could have been asserted, between them, whether under the Coverage Action, the PSE Proofs of Claim or otherwise, in accordance with the terms and conditions hereinafter set forth; and

**WHEREAS**, the Parties agree that this Settlement Agreement is subject to and conditioned upon the Liquidation Court approving the Settlement Agreement and allowing the Recommended Amount (as defined below) into the Home liquidation estate and in the event the Liquidation Court does not allow the Recommended Amount this Settlement Agreement shall be null and void and without any force or effect.

**NOW, THEREFORE**, in consideration of all the respective transactions contemplated by this Settlement Agreement, and the mutual covenants and representations herein contained, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Effective Upon Approval. This Agreement is conditioned and shall only become effective (the "Effective Date"), upon approval by the Liquidation Court.

2. Recommendation, Allowance and Classification of Claim.

A. Subject to all the terms of this Settlement Agreement, and with the agreement of PSE, which, by PSE's execution hereof is hereby granted, the Liquidator shall recommend pursuant to RSA § 402-C:45 that the Proofs of Claim be allowed in the aggregate amount of \$3,250,000.00 (the "Recommended Amount"), as a Class II priority claim under RSA § 402-C:44. The Liquidator shall contemporaneously seek allowance of the Recommended Amount as

a Class II claim by the Liquidation Court in connection with the Liquidator's motion for approval of this Settlement Agreement.

B. Allowance of the Recommended Amount as a Class II claim by the Liquidation Court shall fully and finally resolve the Proofs of Claim as described in the Fifth Whereas paragraph of the Recitals and any other proof of claim that PSE has filed or may in the future file in the Home liquidation (the "PSE Proofs of Claim"), the Coverage Action and any and all claims of whatever nature that PSE has under the policies described in the First Whereas paragraph of the Recitals and any other policy issued at any time to PSE by Home (the "Policies"). In the event that the Liquidation Court does not allow the Recommended Amount as a Class II claim, this Settlement Agreement shall be null and void and shall have no force and effect and the Parties will be returned to *status quo ante*, as if no such agreement was ever reached, with this Settlement Agreement then being inadmissible for any purpose in any dispute between the Parties.

C. If and when the Liquidation Court allows the Recommended Amount as a Class II claim, PSE will become a Class II creditor in the Home liquidation estate pursuant to N.H. RSA 402-C:44, and PSE shall receive distributions on the allowed amount at the same intervals and at the same percentages as other Class II creditors of Home.

3. Termination of Claims, Litigation, Coverage Action. Immediately upon the Liquidation Court allowing the Recommended Amount, any claims, litigation or arbitration arising out of or in connection with the Policies, including but not limited to the Coverage Action, shall be deemed terminated and the Parties agree to take all actions necessary to formally effect such termination.

4. Policy Exhaustion and Buy-Out. Immediately upon the Liquidation Court allowing the Recommended Amount, the Policies, and any and all rights and obligations thereunder, shall be deemed to be (a) exhausted and (b) purchased back by Home. Any and all rights and obligations of the Parties under the Policies shall, therefore, be deemed terminated and extinguished.

5. Release by Home. Subject to the terms of this Settlement Agreement and the Liquidation Court's approval of the Recommended Amount, Liquidator, Home, their officers, directors, employees, agents, attorneys, affiliates, shareholders, parents, predecessors, successors and assigns, hereby irrevocably and unconditionally release and discharge PSE from all actions, causes of action, liabilities, adjustments, obligations, offsets, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, premiums, losses, salvage, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, extents, executions, claims, and demands whatsoever, in law, admiralty or equity, which Liquidator, Home, their officers, directors, employees, agents, attorneys, affiliates, shareholders, parents, representatives, liquidators, receivers and rehabilitators and their respective predecessors, successors and assigns, ever had, now have or hereafter may have against PSE, all whether known or unknown, suspected or unsuspected, fixed or contingent in law or in equity, except for any claim for indemnification as set forth in paragraph 7 of this Settlement Agreement.

6. Release by PSE. Subject to the terms of this Settlement Agreement and the Liquidation Court's approval of the Recommended Amount, PSE, its officers, directors, employees, agents, attorneys, affiliates, shareholders, parents, predecessors, successors and assigns, hereby irrevocably and unconditionally release and discharge Liquidator, Home their officers, directors, employees, agents, attorneys, affiliates, shareholders, parents, predecessors,

successors and assigns, from all actions, causes of action, liabilities, adjustments, obligations, offsets, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, premiums, losses, salvage, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, extents, executions, claims, and demands whatsoever, in law, admiralty or equity, which PSE, its officers, directors, employees, agents, attorneys, affiliates, shareholders, parents, representatives, liquidators, receivers and rehabilitators and their respective predecessors, successors and assigns, ever had, now have or hereafter may have against Liquidator, Home their officers, directors, employees, agents, attorneys, affiliates, shareholders, parents, predecessors, successors and assigns, all whether known or unknown, suspected or unsuspected, fixed or contingent in law or in equity.

7. Indemnification. Immediately upon the Recommended Amount being allowed by the Liquidation Court, PSE agrees to indemnify and hold Liquidator, Home their officers, directors, employees, agents, attorneys, affiliates, shareholders, parents, predecessors, successors and assigns, harmless from and against any and all claims, losses, liabilities, debts, damages, costs or expenses arising from, as result of, in connection with, or related to the Policies and/or the Coverage Action. The future obligations of PSE under this paragraph shall extend to and include any and all claims against Liquidator and/or Home by any other individual or entity arising out of or relating to the Policies including but not limited to vendors of PSE (including claims for defense and indemnity), other insurers of PSE, and by any individuals or entities asserting "direct action" claims for injuries arising out of or related to the Policies or the Coverage Action. PSE shall cooperate with Home to eliminate claims against Home and shall promptly notify Home of any such claim and shall cooperate in the defense or settlement thereof and take no action that would prejudice the outcome of any such claim.

PSE acknowledges that this Settlement Agreement is intended to resolve all matters arising out of or relating to any rights it has, may have or may have had in the Policies, the Proofs of Claim and the Coverage Action, including any asserted rights of claimants against PSE in the Policies and PSE agrees to address, at its sole cost and expense, any said claims of claimants against PSE as if there had been no liquidation proceeding for Home and as if PSE had no insurance coverage from Home directly or by virtue of the Policies or any other policy issued by Home to PSE or any other entity.

In furtherance of this Settlement Agreement, PSE shall, in addition, attempt in good faith to obtain from each party to the Coverage Action who enters into a settlement agreement with PSE from the date of approval of this Settlement Agreement forward, a covenant not to assert against Home any claim for indemnity, contribution or any other form of reimbursement in respect of any amount paid to PSE, including any amounts paid pursuant to such settlement agreements.

8. Further Assurances. The Parties shall take all further actions as may be necessary to carry out the intent and purpose of this Settlement Agreement and to consummate the transactions contemplated herein.

9. Governing Law and Venue. This Settlement Agreement shall be governed by and construed in accordance with the laws of the State of New Hampshire without regard to the conflicts of law provisions thereof. The Parties agree that the exclusive venue for any dispute between the Parties arising out of the Proofs of Claim or this Settlement Agreement shall be the Liquidation Court.

10. Due Diligence. The Parties acknowledge and agree that, in executing this Settlement Agreement, they have relied upon their own judgment and upon the recommendations

of their legal counsel, if any, that they have read the Settlement Agreement and have had the opportunity to consider the terms and effects of each and to ask any questions that they have of anyone, and that they have executed this Settlement Agreement voluntarily and with full understanding of its terms and effects.

11. No Third Party Rights. Except as otherwise set forth herein, this Settlement Agreement is entered into solely for the benefit of Home and PSE and is not intended to, and does not give or create any rights to or in any person or entity other than Home or PSE; provided, however, that the Parties agree that PSE may assign their rights to any distributions pursuant to paragraph 2C of this Settlement Agreement. The Parties expressly acknowledge that PSE does not intend through this Settlement Agreement to confer any benefits on, create any rights for, or release any of its claims against any of PSE's other insurers.

12. Counterparts. This Settlement Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Settlement Agreement shall be of no force and effect until executed by both Parties.

13. Power and Authority to Execute. Each Party hereto represents and warrants that it has the full power and authority to execute, deliver and perform this Settlement Agreement, that each individual signing on behalf of a Party has been duly authorized by that Party to execute this Settlement Agreement on its behalf, and that no claims being released under the terms of this Settlement Agreement have been assigned, sold, or otherwise transferred to any other entity. PSE further represents and warrants that it has authority to act on behalf of Washington Natural Gas Corporation and is the lawful successor-by-merger to Washington Natural Gas Corporation.



14. Successor-in-Interest Bound. This Settlement Agreement shall be binding upon, and shall inure to the benefit of the Parties and their respective officers, directors, employees, affiliates, attorneys, liquidators, administrators, agents, representatives, successors and assigns.

15. Entire Agreement. This Settlement Agreement constitutes the entire agreement and understanding between the Parties with respect to the subject matter thereof. This Settlement Agreement supersedes all prior agreements and understandings, whether written or oral, concerning such matters.


16. Survival of Warranties and Representations. The warranties and representations made herein shall survive the execution of this Settlement Agreement.

17. Validity of Settlement Agreement. Subject to approval of this Settlement Agreement by the Liquidation Court, each Party represents and warrants that this Settlement Agreement is a legal, valid and binding obligation, enforceable in accordance with its terms and that there are no laws, rules or regulations that prohibit its enforceability. The provisions of this Settlement Agreement are severable, and if any part is found unenforceable, the remainder shall remain valid and enforceable.

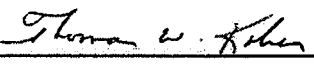
18. No Waiver. No waiver of any right under this Settlement Agreement shall be deemed effective unless contained in writing signed by the Party or an authorized officer of the Party charged with such waiver, and no waiver of any breach or failure to perform shall be deemed to be a waiver of any future breach or failure to perform or of any other provisions of this Settlement Agreement. This Settlement Agreement may not be amended except in a document signed by the Party or an officer of the Party to be charged.

**WHEREFORE**, the Parties have caused this Settlement Agreement to be executed on their respective behalves as of the date below the signatures of their duly authorized representatives.

**PUGET SOUND ENERGY, INC.**

By:   
Name: Steve Secrist  
Title: Director Environmental Policy and Sustainability  
Date: 10/9/06

**ROGER A. SEVIGNY, COMMISSIONER OF INSURANCE OF THE STATE OF NEW HAMPSHIRE, SOLELY IN HIS CAPACITY AS LIQUIDATOR OF THE HOME INSURANCE COMPANY**

By:   
Name: Thomas W. Kuser  
Title: Chief Claims Officer  
Date: 4/5/7