

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 DUKE ENERGY**

Roger A. Sevigny, Insurance Commissioner 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 Duke Energy Indiana Inc., formerly known as PSI Energy, Inc. and Public Service Company of Indiana, Inc. ("Duke Energy") and the Liquidator. As reasons therefor, the Liquidator states as follows:

1. The Settlement Agreement was negotiated under the supervision of the Special Deputy Liquidator. Affidavit of Peter A. Bengelsdorf in Support of Motion for Approval of Settlement Agreement with Duke Energy ("Bengelsdorf Aff.") ¶ 2. A copy of the Settlement Agreement is attached hereto as Exhibit A. The Settlement Agreement is subject to approval by the Court. Settlement Agreement ¶ 1. Bengelsdorf Aff. ¶ 4.

2. Home issued three insurance policies to Public Service Company of Indiana, Inc. for various policy periods between September 1, 1964 and December 31, 1972. Settlement Agreement, first Whereas clause. Home also issued three insurance policies to Public Service Company of Indiana, Inc. and its subsidiary, South Construction Company, Inc., for various policy periods between December 31, 1972 and December 31, 1974. Settlement Agreement, second Whereas clause. Upon Home's placement in liquidation, Duke Energy filed nine proofs

of claim in the Home liquidation regarding claims under the policies, including but not limited to claims for coverage for asbestos bodily injury and environmental clean-up costs and damages. Settlement Agreement, fourth Whereas clause. Bengelsdorf Aff. ¶ 3.¹

3. The Settlement Agreement provides that the Liquidator will recommend allowance of the proofs of claim with respect to the settled claims in the aggregate amount of \$1,575,000 as a Class II priority claim of Duke Energy under RSA 402-C:44. Allowance of the recommended amount as a Class II claim will fully and finally resolve the proof of claim and all claims Duke Energy has under the policies. 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. Settlement Agreement ¶ 2. Bengelsdorf Aff. ¶ 5.

4. The Settlement Agreement is intended to resolve the proofs of claim and all claims under the policies. See Settlement Agreement ¶¶ 2, 5. To that end, the Settlement Agreement provides for mutual releases of all claims among the Liquidator, Home and Duke Energy arising from or related to the proofs of claim or the policies. Id. ¶¶ 3, 4. The Liquidator also agrees not to pursue claims respecting the underlying matters covered by the proofs of claim against other insurers of Duke Energy that agree not to pursue such claims against Home. Id. ¶ 6. Bengelsdorf Aff. ¶ 6.

5. The Liquidator is not aware of any third party claimants who have asserted claims under the policies.² 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

¹ For the avoidance of doubt, the settlement specifically excludes policies issued to Cincinnati Gas & Electric Company, Union Light Heat and Power Company, Cinergy Corp. or Cinergy Services, Inc., and a proof of claim under one such policy. Settlement Agreement, second and fourth Whereas clauses.

² Certain London market insurers have submitted a contribution claim in respect of the policies. Unlike third party claimants' claims, a contribution claim is independent of the insured's claims (although derived from the same underlying circumstances), and it will remain to be determined on its own merits in the liquidation proceeding.

under the policies in the Home liquidation without prejudice to their claims against Duke Energy. Accordingly, Duke Energy acknowledges in the Settlement Agreement that it is intended to resolve all matters between Duke Energy and the Liquidator/Home relating to the proofs of claim and the policies, including asserted rights of third party claimants. Settlement Agreement ¶ 5. Duke Energy agrees to address, at its sole cost, the claims of claimants asserting claims against Duke Energy as if Duke Energy had no insurance coverage from Home under the policies. *Id.* Duke Energy agrees to indemnify the Liquidator and Home against claims arising from the policies up to the amounts ultimately distributed or distributable to Duke Energy (other than the contribution claim). *Id.* Bengelsdorf Aff. ¶ 7 & n.3.

6. The denial of any third party claimants' proofs of claim without prejudice to their claims against Duke Energy will not harm the third party claimants, who will continue to have their full claims against Duke Energy. As noted above, Duke Energy has agreed to address these claims as if it had no insurance coverage from Home under the policies. Settlement Agreement ¶ 5. Third party claimants' proofs of claim against the insolvent Home, if not denied with this agreement, would release Duke Energy from those claims up to the limits of the policies but only entitle the third party claimants (assuming their claims were 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., 153 N.H. 521, 535 (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, Duke Energy will continue to be fully responsible for any third party claimants' claims against it. See Settlement Agreement ¶ 5. Bengelsdorf Aff. ¶ 8.

7. The Settlement Agreement reflects a compromise of the claims asserted in the proofs of claim. It is the result of negotiations involving the Claims Department, under the supervision of the Special Deputy Liquidator, which has extensive experience in assessing the exposure presented by claims for asbestos bodily injury and environmental clean-up costs and damages 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 liabilities of Duke Energy. The Liquidator accordingly recommends approval of the Settlement Agreement and allowance of the \$1,575,000 settlement amount as a Class II claim of Duke Energy in accordance with RSA 402-C:45 and RSA 402-C:44. Bengelsdorf Aff. ¶ 9.

8. The Court has previously approved similar settlement agreements. See, e.g., Order Approving Settlement Agreement with Wisconsin Energy (March 18, 2010); Order Approving Settlement Agreement with Straits Steel (May 3, 2009); Order Approving Settlement Agreement with Georgia-Pacific (April 3, 2008); 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 Duke Energy.

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. ¶ 10.

WHEREFORE, the Liquidator respectfully requests that this Court:

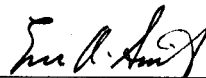
- A. Grant this Motion;
- B. Enter an Order in the form submitted herewith approving the Settlement Agreement, approving the Liquidator's claim recommendation, and allowing Duke Energy's claim as a Class II claims in the aggregate amount of \$1,575,000; and
- C. Grant such other and further relief as justice may require.

Respectfully submitted,

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

By his attorneys,
MICHAEL A. DELANEY
ATTORNEY GENERAL

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Civil Bureau
New Hampshire Department of Justice
33 Capitol Street
Concord, NH 03301-6397
(603) 271-3650




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NH Bar ID No. 16952
Rackemann, Sawyer & Brewster P.C.
160 Federal Street
Boston, MA 02110
(617) 542-2300

July 18, 2012

Certificate of Service

I hereby certify that a copy of the foregoing Liquidator's Motion for Approval of Settlement Agreement with Duke Energy, the Affidavit of Peter A. Bengelsdorf, and the Proposed Order, were sent, this 18th day of July, 2012, by first class mail, postage prepaid to all persons on the attached service list.



Eric A. Smith
NH Bar ID No. 16952

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

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Docket No. 03-E-0106

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SETTLEMENT AGREEMENT AND MUTUAL RELEASE

This Settlement Agreement and Mutual Release ("Settlement Agreement") is made this 30th day of June 2012, by and between Duke Energy Indiana Inc., formerly known as PSI Energy, Inc. and Public Service Company of Indiana, Inc. ("Claimant") on the one hand, and Roger A. Sevigny, Insurance Commissioner of the State of New Hampshire, solely in his capacity as Liquidator ("Liquidator") of The Home Insurance Company ("Home"), on the other hand (the Claimant and the Liquidator are hereinafter referred to collectively as the "Parties").

WHEREAS, Home issued insurance policies to Public Service Company of Indiana, Inc. under which Public Service Company of Indiana, Inc. is the named insured:

<u>Policy Number</u>	<u>Policy Period</u>
HEC9543828	9/1/64–9/1/66
HEC955334	9/1/66–12/31/69
HEC9791336	12/31/69–12/31/72

WHEREAS, Home issued insurance policies to Public Service Company of Indiana, Inc. and South Construction Company, Inc. under which Public Service Company of Indiana, Inc. and South Construction Company, Inc. are the named insureds:

<u>Policy Number</u>	<u>Policy Period</u>
HEC94356713	12/31/72–11/31/73
HEC94356725	1/31/73–1/31/74
HEC4495405	1/31/74–12/31/74

which together with all other insurance policies that Home may have issued to Public Service Company of Indiana, Inc. and its subsidiary South Construction Company, Inc. (but, for the avoidance of doubt, not to Cincinnati Gas & Electric Company, Union Light Heat and Power Company, Cinergy Corp. or Cinergy Services, Inc.) are hereinafter defined collectively as the "Policies";

WHEREAS, Home is being liquidated pursuant to the June 13, 2003 Order of the Merrimack County Superior Court (the "Liquidation Court"), pursuant to which the Liquidator was appointed as the Liquidator of Home;

WHEREAS, Claimant seeks payment from Home respecting claims, including but not limited to claims for asbestos bodily injury claims and environmental clean up costs and damages, and Claimant has submitted proofs of claim in the Home liquidation estate that have been assigned the following proof of claim numbers:

EMTL388231
INSU107190
INSU108814
INSU210219
INSU215144
INSU275406
INSU275407
INSU81875
INSU82965

which together with any other proof of claim hereinbefore or hereinafter filed by Claimant in the Home liquidation estate (excluding proof of claim INSU700148 under a policy issued to Cincinnati Electric) are hereinafter defined collectively as the "Proofs of Claim";

WHEREAS, the Parties are desirous of resolving all claims that were asserted, or could have been or could be asserted, between them and resolving all matters concerning the Proofs of Claim and all rights and obligations with respect to the Policies;

WHEREAS, the Parties agree that this Settlement Agreement is subject to and conditioned upon its approval by the Liquidation Court and allowance of the Recommended Amount (as defined below) into the Home liquidation estate and in the event that the Liquidation Court does not approve the Settlement Agreement and 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. Effectiveness. This Settlement Agreement is conditioned and shall only become effective (the "Effective Date") upon approval by the Liquidation Court. The Liquidator shall move at his expense for approval of this Settlement Agreement promptly following execution by both Parties.

2. Recommendation, Allowance, and Classification of Claims. Subject to all the terms of this Settlement Agreement, and with the agreement of Claimant, which by Claimant's execution hereof is hereby granted, the Liquidator shall recommend pursuant to N.H. RSA 402-C:45 that the Proofs of Claim be allowed in the amount of \$1,575,000 (the "Recommended Amount") as a Class II priority claim under N.H. RSA 402-C:44.

The Liquidator shall seek allowance of the Recommended Amount as a Class II priority claim by the Liquidation Court in the Liquidator's motion for approval of this Settlement Agreement.

Allowance of the Recommended Amount as a Class II priority claim by the Liquidation Court shall fully and finally resolve the Proofs of Claim and any and all claims of whatever nature that Claimant has under the Policies. In the event that the Liquidation Court does not allow the Recommended Amount as a Class II priority 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 thereafter being inadmissible for any purpose in any dispute between the Parties.

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

3. Release by Claimant. Subject to the terms of this Settlement Agreement and the Liquidation Court's approval of the Recommended Amount as a Class II priority claim, Claimant for itself and on behalf of its officers, directors, employees, agents, attorneys, subsidiaries, affiliates, predecessors, and their successors and assigns, irrevocably and unconditionally releases and discharges the Liquidator and Home and each of their respective officers, directors, employees, agents, attorneys, subsidiaries, affiliates, predecessors, successors, and assigns (including any trustee or other statutory successor), from any and 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/or demands arising from or related to the Proofs of Claim or the Policies, in law, admiralty, or equity, which Claimant, its subsidiaries, affiliates, predecessors, successors, and assigns, ever had, now have, or hereafter may have against the Liquidator or Home or their respective officers, directors, employees, agents, attorneys, subsidiaries, affiliates, predecessors, successors and assigns, all whether known or unknown, suspected or unsuspected, fixed or contingent, in law, admiralty or equity, arising from or related to the Proofs of Claim or the Policies.

4. Release by Liquidator. Subject to the terms of this Settlement Agreement and the Liquidation Court's approval of the Recommended Amount as a Class II priority claim, the

Liquidator, in his capacity as such, and on behalf of Home and each of their respective officers, directors, employees, agents, attorneys, subsidiaries, affiliates, predecessors, and their successors and assigns, irrevocably and unconditionally releases and discharges Claimant and its officers, directors, employees, agents, attorneys, subsidiaries, affiliates, predecessors, successors and assigns, from any and 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/or demands arising from or related to the Proofs of Claim or the Policies, in law, admiralty or equity, which the Liquidator, Home, or their subsidiaries, affiliates, predecessors, successors and assigns, ever had, now have, or hereafter may have against Claimant or its officers, directors, employees, agents, attorneys, subsidiaries, affiliates, predecessors, successors, and assigns, all whether known or unknown, suspected or unsuspected, fixed or contingent, in law, admiralty or equity, arising from or related to the Proofs of Claim or the Policies.

5. Resolution of Matters and Indemnification. Claimant acknowledges that this Settlement Agreement is intended to resolve all matters arising out of or relating to any rights it ever had, now has or hereafter may have in the Policies and the Proofs of Claim, including any asserted rights of third party claimants against Claimant under the Policies, and Claimant agrees to address, at its sole cost and expense, any such claims of third party claimants against Claimant as if there had been no liquidation proceeding for Home and as if Claimant had no insurance coverage from Home by virtue of the Policies. In consideration of the Recommended Amount being allowed by the Liquidation Court as a Class II priority claim, Claimant agrees to indemnify and hold the Liquidator and Home harmless from and against any and all claims, losses, liabilities, debts, damages, costs or expenses arising from or related to the Policies or Proofs of

Claim; provided, however, that the obligation of Claimant to pay for the defense (including costs, fees, attorneys' fees and disbursements), indemnify and hold harmless the Liquidator and Home under this section 5: (a) shall exclude all salaries of all employees and officers of the Liquidator and Home and all internal costs incurred by the Liquidator and Home; and (b) the total amount of the indemnification obligation of Claimant, including all costs, fees, expenses, disbursements and settlement payments, shall be capped in the aggregate at the total amount ultimately distributed or distributable in relation to the Recommended Amount as allowed by the Liquidation Court. The future obligations of Claimant under this paragraph shall extend to and include (by way of example and not limitation) any claims, including claims for defense or indemnity, made under the Policies against the Liquidator or Home by vendors of or respecting Claimant, by other insurers of Claimant, and by any individuals or entities asserting "direct action" claims arising out of or related to the Policies (hereinafter "Indemnified Claims"). The Liquidator shall promptly notify Claimant of any such claim, and shall afford Claimant the opportunity to reasonably participate in the defense of such claims. Claimant shall have no duty to pay for defense or indemnity that the Liquidator or Home incur or pay prior to Claimant's receipt of notice of the claim, nor any duty to indemnify or hold harmless the Liquidator or Home prior to receipt of notice of the claim. The Liquidator shall assert all defenses to such claims reasonably available to the Liquidator, including defenses under the Order of Liquidation or the New Hampshire Insurers Rehabilitation and Liquidation Act. Claimant shall reasonably cooperate with the Liquidator (including but not limited to the provision of affidavits or testimony) to defend against and resolve such claims. The Liquidator represents that he has reviewed the proofs of claim submitted in the Home liquidation estate and that as of the date of this Settlement Agreement, he is not aware of any proofs of claim that have been submitted specifically referencing the Policies other than the proofs of claim filed by Claimant and a proof

of claim submitted by Certain Underwriters at Lloyd's, London, certain solvent represented London Market insurance companies and Insko, Ltd. ("London Market Insurers").

Notwithstanding anything provided to the contrary in this paragraph 5, it is expressly understood and agreed by the Parties that Claimant shall not be obligated to indemnify, defend or hold harmless the Liquidator or Home for any claim brought or proof of claim submitted in the Home liquidation estate by the London Market Insurers under the Policies.

Claimant acknowledges that it is apprised of the requirements of the Medicare Secondary Payer Act ("MSPA") as well as the Medicare, Medicaid and SCHIP Extension Act of 2007 ("MMSEA" and collectively, the "Acts"), which include or may include provisions for a Medicare Set-Aside and/or notification to the Centers For Medicare and Medicaid Services ("CMS") regarding certain Medicare-eligible, or potentially eligible claimants who enter into settlement agreements that may justify recovery for Medicare covered case-related services, and Claimant acknowledges that as part of the consideration to induce Liquidator to enter into this settlement agreement it will comply with any and all reporting or other obligations of said Acts. Claimant further agrees to fully indemnify Liquidator against any claims, liens or obligations with respect to the Acts, or otherwise regarding Medicare, Medicaid, and/or any other form of public assistance that may arise from or in relation to this Settlement Agreement.

6. Mutual Release of Settling Carriers. Claimant agrees to use reasonable commercial efforts to cause any settlement agreement relating to the underlying matters covered by the Proofs of Claim with any other insurance company to include a waiver by that other insurance company of any claim, including contribution, apportionment, indemnification, subrogation, equitable subrogation, allocation, or recoupment, against Home regarding these matters ("No Contribution Provision"). The Liquidator agrees to waive, relinquish and release any claim, including contribution, apportionment, indemnification, subrogation, equitable

subrogation, allocation, or recoupment, as to the matters covered by the Proofs of Claim against any other insurance company which executes a settlement with Claimant that includes a No Contribution Provision that is materially the same as this paragraph.

7. No Assignments. Claimant warrants and agrees that it has not assigned, conveyed, or otherwise transferred any claims, demands, causes of action, rights, or obligations related in any way to the Policies, or any proceeds thereof, or to the claims, losses and expenses released herein, to any person or entity. Claimant shall not assign or otherwise transfer this Settlement Agreement or any rights or obligations thereunder without the written consent of the Liquidator, which consent shall not be unreasonably withheld.

8. Further Assurances. The Parties shall take all further actions as may be reasonably 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, the Policies or this Settlement Agreement shall be the Liquidation Court.

10. Due Diligence. The Parties acknowledge and agree that, in negotiating and executing this Settlement Agreement, they have relied upon their own judgment and upon the recommendations of their own legal counsel, that they have read this Settlement Agreement and have had the opportunity to consider its terms and effects, and that they have executed this Settlement Agreement voluntarily and with full understanding of its terms and effects. This Settlement Agreement is the product of negotiations between the Parties. No Party shall be

charged with having promulgated this Settlement Agreement, and the general rule that ambiguities are to be construed against the drafter shall not apply to this Agreement.

11. No Third Party Rights. This Settlement Agreement is entered into solely for the benefit of the Liquidator, Home, and Claimant and is not intended to, and does not give or create any rights to or in any person or entity other than the Parties.

12. Counterparts. This Settlement Agreement may be executed in multiple counterparts, each of which, when so delivered, shall be an original, but such counterparts shall together constitute one and the same instrument. The Parties agree that a signature sent by facsimile or electronic mail to the other Party shall have the same force and effect as an original signature.

13. Power and Authority to Execute. Subject to the approval of the Liquidation Court required by paragraph 1, each Party hereto represents and warrants that it has the full power and authority to execute, deliver, and perform this Settlement Agreement; that all requisite and necessary approvals have been obtained to consummate the transactions contemplated by this Settlement Agreement; that there are no other agreements or transactions to which it is a party that would render this Settlement Agreement or any part thereof, void, voidable or unenforceable; 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.

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, receivers, 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 as required by paragraph 1, each Party represents and warrants that this Settlement Agreement is a legal, valid, and binding obligation, enforceable in accordance with its terms.

18. No Waiver. No waiver of any right under this Settlement Agreement shall be deemed effective unless contained in a writing signed by the Party or an authorized representative 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 provision of this Settlement Agreement. This Settlement Agreement may not be amended except in a document signed by the Party or an officer or other authorized official of the Party to be charged.

19. Notice. All notices to be given under this Settlement Agreement shall be given by facsimile and first class U.S. mail directed to:

If to Claimant, to:

Melissa J. Tea
K&L Gates LLP
K&L Gates Center
210 Sixth Avenue
Pittsburgh, PA 15222-2613

If to the Liquidator, to:

Thomas W. Kober, Chief Claims Officer
The Home Insurance Company in Liquidation
61 Broadway, 6th Floor
New York, New York 10006
Fax: 212-299-3824

and

J. Christopher Marshall
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33 Capitol Street
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and

J. David Leslie, Esq.
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160 Federal Street
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Fax: 617-542-7437

20. Severability. If any provision of this Settlement Agreement is invalid, unenforceable, or illegal under the law of any applicable jurisdiction, the validity and enforceability of such provision in any other jurisdiction shall not be affected thereby and the remaining provisions of this Settlement Agreement shall remain valid and enforceable. However, in the event of such invalidity, unenforceability, or illegality, the Parties shall negotiate in good faith to amend this Settlement Agreement through the insertion of additional provisions which are valid, enforceable, and legal and which reflect, to the extent possible, the purposes contained in the invalid, unenforceable, or illegal provision.

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

DUKE ENERGY INDIANA, INC.

By: E. Keith Bone

Name: E. Keith Bone

Title: Director - Insurance & Claims

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

By: Thomas W. Korzen

Name: Thomas W. Korzen

Title: Chief Claims Officer