

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

IN RE: MERCURY CLASS ACTION)
LITIGATION)
_____)

No. 00 CH 13226 (Cons.)
Judge Paul P. Biebel, Jr.

SETTLEMENT AGREEMENT

This Settlement Agreement (the "Settlement Agreement") is entered into as of this ___ day of October, 2001, between, on the one hand, counsel for both the Class (as that term is defined below) and the Named Plaintiffs (as that term is defined below) on behalf of the Class and the Named Plaintiffs, and, on the other hand, the Defendants (as that term is defined below). As set forth more fully below, this Settlement Agreement will be binding and effective only upon final approval and entry of a Dismissal Order, as set forth in Paragraph 40.

DEFINED TERMS

1. **Class**. The "Class" means all individuals or entities who now or previously owned or occupied property in Illinois on which: (1) natural gas regulators were installed or placed by Nicor Gas or its predecessors, which regulators contained or formerly contained mercury; or (2) mercury from such natural gas regulators came to be present, and Nicor Gas or its agents so notified one or more individuals or entities at such property.

2. **Class Plaintiffs**. "Class Plaintiffs" means Rhonita Austin, Kellee Austin, Michael Addison, Shannon Jennings, Juanita Evans, Kenyon Evans, Bruno Baruffi, Nicholas DeGrazio, Susan DeGrazio, James Hacker, Tammy Henning, Kevin Henning, Emily Henning, Chelsea Henning,

Timothy McGivern, Janet McGivern, Darlene Serrano, Edward Stechman, Patricia Stechman, and Alexander Stechman, named plaintiffs in the Instant Action.

3. Defendants. The term "Defendants" shall mean Nicor Gas, Henkels & McCoy, Inc., ("H&M") and Northern Pipeline Construction Co. ("NPL"), the named defendants in this action.

4. Effective Date. The "Effective Date" of this Agreement shall be thirty (30) days after entry of Final Judgment, as that term is defined herein.

5. Final Approval. The Court's issuance of a final, appealable order that is the same in substance as the form of Final Judgment and Order of Dismissal attached hereto as Exhibit C, which order, among other things, approves this Settlement pursuant to 735 ILCS 5/2-801 - 806 is referred to herein as "Final Approval."

6. Final Judgment. "Final Judgment" shall be deemed entered only after both of the following have occurred: (a) the Court gives Final Approval to the Settlement Agreement by executing an order that is the same in substance as the form of Final Judgment and Order attached hereto as Exhibit C and (b) the time has expired in which to seek review or appeal of such order without any review or appeal having been taken, or, if such review or appeal is taken, such review or appeal shall have been finally determined (subject to no right of further review or appeal) by the highest court before which such review or appeal can be sought and allowed, and such review or appeal shall have been resolved in such manner as to permit the consummation of the settlement effected by this Settlement Agreement in accordance with all of its terms and provisions.

7. Known Illness. Known Illness means a current or former illness or injury that arose from continuous or repeated exposure to substantially the same general conditions, specifically mercury or "Mercury Containing Equipment" for which a Class member, as of the date of the

Preliminary Approval Order, has symptoms (or previously had symptoms) that the Class member knew or should have known were associated with or related to mercury or Mercury Containing Equipment.

8. Lead Class Counsel. Ben Barnow and William Harte have been designated by the Class Plaintiffs and the Named Plaintiffs as the “Lead Class Counsel.”

9. Mercury Containing Equipment. Mercury Containing Equipment means those pressure regulators used by Nicor Gas as part of its natural gas delivery system that contain or contained some quantity of mercury.

10. Named Plaintiffs. “Named Plaintiffs” means the individuals identified as Class Plaintiffs and, in addition, Michael Castelli and Sharon Castelli.

11. Plaintiffs’ Counsel. The following attorneys are designated as “Plaintiffs’ Counsel:” Lead Class Counsel, Ben Barnow of Barnow and Goldberg, P.C., and William J. Harte of William J. Harte, Ltd.; counsel on the Executive Committee (in addition to Lead Class Counsel), Daniel K. Touhy of Timothy J. Touhy & Associates, Ltd., Robert Pavich and Melanie Fairman of Monico, Pavich & Spevack, Kevin Rogers of the Law Offices of Kevin Rogers, Daniel A. Edelman and Cathleen Combs of Edelman, Combs & Lattuner, Clinton Krislov and Michael Karnuth of Krislov & Associates, Ltd., and Larry D. Drury of Larry D. Drury, Ltd.; and additional plaintiffs’ counsel of Robert Langendorf of Robert Langendorf & Associates, and John Alexander of John Alexander & Associates, LLC.

12. State Action. “State Action” means the lawsuit captioned as People of the State of Illinois v. Nicor, Inc., et al., No. 00 CH 12962, Circuit Court of Cook County, County Department, Chancery Division (Judge Paul P. Biebel, Jr.).

RECITALS

13. Nicor Gas has determined that mercury associated with Mercury Containing Equipment has been discovered in certain locations where Mercury Containing Equipment was installed, maintained, repaired, and/or removed.

14. H&M is a contractor that has worked on various portions of the Nicor Gas natural gas delivery system. From time to time, certain H&M employees took actions regarding certain Mercury Containing Equipment, including but not limited to removing such equipment from the locations where it was installed.

15. NPL is a contractor that has worked on various portions of the Nicor Gas natural gas delivery system. From time to time, certain NPL employees took actions regarding certain Mercury Containing Equipment, including but not limited to removing such equipment from the locations where it was installed.

16. On August 21, 2000, Darlene Serrano filed an initial complaint alleging a claim of negligence against Nicor Gas related to Mercury Containing Equipment in her home. On August 29, 2000, Darlene Serrano filed an amended complaint alleging a putative class action on her own behalf and on behalf of all others similarly situated, and claiming negligence and seeking medical monitoring. Subsequent to this date, the other Named Plaintiffs filed additional actions.

17. On September 5, 2000, the Attorney General and the State's Attorneys of Cook and DuPage Counties (later joined by the State's Attorney of Will County) filed their complaint in the State Action. On September 12 and September 16, 2000, this Court entered preliminary injunctions ordering Nicor Gas to clean up, at its cost, any mercury spills associated with the Mercury Containing Equipment (the "Preliminary Injunctions"). Since then, Nicor Gas has made weekly reports to the

Court on the progress of the cleanup, and has worked closely with a group of agencies including the Illinois Attorney General's Office, the Illinois Environmental Protection Agency, the Illinois Department of Public Health, the United States Environmental Protection Agency, and the federal Agency for Toxic Substance and Disease Registry (collectively, the "Task Force"), appointed to represent the interests of persons potentially affected by mercury associated with Mercury Containing Devices.

18. On October 20, 2000, the Named Plaintiffs (including Darlene Serrano) filed their four-count consolidated class action complaint, on behalf of themselves and a purported class consisting largely of Nicor Gas customers allegedly affected by mercury associated with Mercury Containing Equipment. The consolidated class action complaint asserted claims for negligence, willful and wanton conduct, strict liability and medical monitoring, based, inter alia, on alleged damages purportedly stemming from exposure to substantially the same general conditions due to the common cause of installation, maintenance or removal of Mercury Containing Equipment from the 1950s to the present.

19. The Named Plaintiffs will be filing, within ten (10) days of the date of this Agreement, an Amended Consolidated Class Action Complaint. The Amended Consolidated Class Action Complaint will not name Nicor, Inc. as a defendant; thus, Nicor, Inc. will not be a party to the Class Action. (The Amended Consolidated Class Action Complaint is referred to herein as the "Pending Litigation.").

20. Nicor Gas developed and provided to the State Action plaintiffs for their review and approval a work plan for the screening of all locations serviced by Nicor Gas which then had or may

in the past have had Mercury Containing Equipment. Using the approved work plan, Nicor Gas representatives visited the locations and conducted an initial visual screening.

21. Nicor Gas completed an initial inspection of approximately 300,000 locations by November 15, 2000, consistent with the requirements of the Preliminary Injunctions.

22. As of June 12, 2001, 1,059 sites were identified through the inspection process as having either visible mercury or mercury vapor at levels above standards set by the Court. Cleanup activities have been completed on approximately 957 of these sites. At these locations, the customer has received a clearance letter from the Illinois Department of Public Health indicating that there is not any health hazard due to mercury exposure for anyone living or working in the household or location. Of the remaining sites, certain of the owners have requested that Nicor Gas not complete the remediation work scheduled to be completed under the protocols.

23. At certain locations, occupants were moved, at the expense of Nicor Gas, to a separate location while Nicor Gas conducted appropriate remediation or investigatory activities.

24. Nicor Gas has reimbursed affected individuals for their reasonable expenses incurred because of continuous or repeated exposure to substantially the same general conditions relating to mercury associated with Mercury Containing Devices, including damage to personal property.

25. Nicor Gas made available, at its expense, medical testing to all individuals reasonably concerned with health effects associated with mercury from Mercury Containing Devices.

26. Remediation and abatement work undertaken by Nicor Gas and its contractors has been completed in accordance with the protocols and work plans approved by the State Action plaintiffs consistent with, and as ordered by, the State Action.

27. Defendants have at all times denied, and continue to deny, each and every claim of wrongdoing raised against them in the State Action, the Class Action, and various other actions associated with the common cause of continuous or repeated exposure to substantially the same general conditions relating to mercury or Mercury Containing Equipment. Further, Defendants each deny that any of them is liable in damages in any way to the Class Plaintiffs, the Named Plaintiffs, or to the plaintiffs in the State Action.

28. Defendants recognize the expense and time necessary to continue the Class Action through trial and the appeals that may follow, the burden upon and interference with their ordinary business operations that could be caused by the continued litigation and the uncertainty inherent in predicting the outcome of these actions. Defendants have concluded, therefore, that it is in their best interests to resolve the Class Action on the terms set forth in this Settlement Agreement to avoid this additional expense and inconvenience and to put to rest all of the claims that were, or could have been, brought in the Class Action, except for any claims expressly excluded herein by the terms of this Settlement Agreement.

29. Plaintiffs' Counsel have investigated the facts and circumstances underlying the issues raised by the claims by the parties and have researched the law applicable to these issues and claims. Plaintiffs' Counsel recognize the difficulty of complex litigation and the uncertainty inherent in predicting the outcome of the Class Action. Based on these considerations, Plaintiffs' Counsel have concluded that the settlement set forth in this Settlement Agreement is fair, reasonable, adequate, and in the best interests of the Class.

30. This Settlement Agreement reflects a compromise between the parties concerning the interpretation and construction of the facts and the laws governing the parties' conduct in this case,

and shall, in no event, be construed as or be deemed to be an admission or concession by any of the Defendants of the truth of any allegation or the validity of any claim asserted in the Class Action, the State Action or any other action related to mercury or Mercury Containing Equipment; and all such allegations are expressly denied.

NOW, THEREFORE, IT IS HEREBY AGREED, subject to the approval of the Court, as follows:

AGREEMENT

31. The foregoing Definitions and Recitals are incorporated herein by reference and are made a part of this Settlement Agreement.

32. Class Certification. The parties hereto will seek, as a condition to this Settlement Agreement, an order of the Court conditionally certifying the Class.

33. Class Members' Right to Opt Out. Any member of the Class may elect to be excluded from this Settlement Agreement and from the Class by opting out of the Class within forty-five (45) days of the mailing of the Class and Settlement Notice. A Class member shall opt out by mailing a notice of exclusion from the Class to either of the Lead Class Counsel which shall be postmarked no later than the forty-fifth day from the date of mailing. Any Class member who opts out shall neither be bound by the terms of this Settlement Agreement nor be entitled to any of the benefits set forth in this Settlement Agreement.

34. Settlement Terms. Once this Settlement Agreement receives Final Approval and Final Judgment is entered, then the following relief shall be provided:

(a) Relief With Respect to Class Members.

- (1) On behalf of all of the Defendants, Nicor Gas shall pay the sum of \$400.00 (Four Hundred Dollars) to the individual who was the Nicor customer of record (or, to the extent that the location was not receiving natural gas service from Nicor Gas, the head of the household at such location) for each of the approximately 1,059 locations associated with Mercury Containing Equipment or mercury from such Mercury Containing Equipment that, as of the date of the Preliminary Approval Order, has been confirmed as having contained either visible mercury or mercury vapor levels exceeding the standards established by the Court (the "Positive Response Payment"). Notwithstanding the foregoing, however, no Positive Response Payment shall issue on behalf of any location where the mercury levels resulted from the occupants' unauthorized tampering or movement of Mercury Containing Equipment. Further, notwithstanding the foregoing, in no event shall any such payment be made to or on behalf of any location that is or was associated with an individual who has been criminally charged in relation to the presence of mercury in such location. Nicor Gas and Class Counsel shall confer and agree on the precise locations at issue. If any Class member associated with one of the locations at issue in this paragraph opts out of the settlement, then all of the Class members associated with such location shall be deemed

to have opted out of the Settlement Agreement, and no Positive Response Payment shall issue for that location.

- (2) On behalf of all of the Defendants, Nicor Gas shall pay into an escrow account that shall be jointly administered by Lead Class Counsel and Nicor Gas (the "Relocation Payment Escrow") the additional amount of \$1,000,000.00 (One Million Dollars), a share of which shall be allocated to each household from which Class members have been relocated on or after July 15, 2000, but before the date of the Preliminary Approval Order, as the result of Nicor Gas's investigation or remediation activities associated with Mercury Containing Equipment, and to whom Nicor Gas has already made payments because of their relocation (such household members being referred to hereinafter as "Relocated Class Members" and such payments being referred to hereinafter as "Relocation Payments"). The Relocation Payment to which each household occupied by Relocated Class Members shall be entitled will be determined using the following formula: (1) A fraction will be determined, the numerator of which shall be the room and board payments that Nicor Gas has already made to or on behalf of the Relocated Class Members of the household at issue because of their relocation (which amounts shall be reviewed and confirmed by Lead Class Counsel) and the denominator of which shall be the room and board payments that Nicor Gas has

made collectively to or on behalf of all of the Relocated Class Members, without regard to opt-outs (which amounts shall also be reviewed and confirmed by Lead Class Counsel) (the resulting fraction shall be referred to as the "Individual Share"). (2) The Individual Share shall then be multiplied by one million. The resulting figure will be the Relocation Payment payable to that particular household. Notwithstanding the foregoing, in no event shall any such payment be made to or on behalf of any location that is or was associated with an individual who has been criminally charged in relation to the presence of mercury in such location. Each Relocation Payment for a particular household shall be made to the Relocated Class Member who was the Nicor customer of record for that particular household (or, to the extent that the location was not receiving natural gas service from Nicor Gas, to the Relocated Class Member who was the head of the household at such location); provided that, however, if any Relocated Class Member opts out of this Settlement Agreement, then all of the Class members associated with that Relocated Class Member's household, if any, shall also be deemed to have opted out of the settlement, and no Relocation Payment shall issue for that household. The Relocation Payment payable to each household at issue shall be first determined by Nicor Gas and subject to review and approval by

Lead Class Counsel, and the amount of that Relocation Payment shall be set forth in the initial notice sent to each such household.

- (3) For a period of five years from the date of Final Judgment, Nicor Gas will provide appropriate health screenings, such as 24-hour urine mercury tests, at its expense, to all Class members who were part of a household that received a Positive Response Payment.
- (4) Nicor Gas shall use reasonable efforts to remove all mercury - containing regulators that remain located inside residential Class member locations within a period of four years from the date of Final Judgment.

(b) Payment Amounts Associated With Opt-Outs

Neither the Positive Response Payments nor the Relocation Payments shall be made until the period of time for Class members to opt out of this Settlement Agreement has expired and valid Acceptance of Payment forms (as described below) have been received. For each opt-out household or location that otherwise would have been entitled to a Positive Response Payment, Nicor Gas shall pay the \$400.00 into the Relocation Payment Escrow account. After all of the Relocation Payments have been made on behalf of those households for which no Class member opted out of the Settlement Agreement (or at such time when it is possible to ascertain, with a reasonable degree of certainty, the amounts required to pay the remaining Relocation Payments for those households for which Class members have not opted out),

then the amount remaining in the Relocation Payment Escrow account (which amount is hereinafter referred to as the “Excess Funds”) shall be used to fund supplemental environmental projects, as that term is defined in the settlement that may be entered into between Nicor Gas and the State Action plaintiffs (the “State Settlement”). Examples of the kind of supplemental environmental projects (“SEPs”) that the State Action plaintiffs may require include hazardous waste collection activities and community education efforts. The parties to this Settlement Agreement recognize and agree that Nicor Gas may disburse the Excess Funds from the Relocation Payment Escrow account over time, through multiple payments, to pay for the SEPs required by the State Settlement. While the precise timing and amount of such payments from the Relocation Payment Escrow account (which in no event shall exceed the amount of the Excess Funds) shall be at the discretion of Nicor Gas, Nicor Gas shall disburse the Excess Funds to fund the SEPs before Nicor disburses any other funds for such purpose.

35. Acceptance of Payment.

- (a) To receive the payment(s) offered in this Settlement Agreement, eligible Class members who are the Nicor customer of record for the households or locations eligible to receive payment(s) (or, to the extent that such Class members were not Nicor customers, the head of such households) (collectively, the “Responding Class Members”), will be required to submit a valid, fully completed Acceptance of Payment form to Lead Class Counsel,

with a copy to Nicor Gas. Each Responding Class Member must provide all of the information requested on the form, which shall consist of their current name and address, their social security number, the names and current addresses of all Class members associated with that household, and the representations and warranties set forth below.

- (b) Lead Class Counsel, with the review and approval of Nicor Gas, shall determine the amount to be awarded to each Responding Class Member, on behalf of each Responding Class Member's household or location. That amount, and the bases therefor, shall be set forth in the notice provided to each Class member eligible to receive funds pursuant to the terms of this Settlement Agreement. Lead Class Counsel and Nicor Gas may reject any Acceptance of Payment form that is untimely, incomplete, fails to contain the documentation required, or is otherwise invalid. If Lead Class Counsel and/or Nicor Gas rejects any Acceptance of Payment form, they will provide notice of the rejection to the Responding Class Member.
- (c) The Class members shall collectively be entitled to submit only one Acceptance of Payment form per each affected household or location. One check will be made payable to the Responding Class Member.
- (d) If any Class member who is an owner, an occupant, or a former occupant of a household or location for which relief is provided in this Settlement Agreement opts out of this settlement, then each Class member who owns, occupies, or has occupied at such household or location shall also be deemed

to have opted out of the settlement, and no payment shall issue for such household or location

- (e) Each Acceptance of Payment form shall specifically state that the Responding Class Member is signing the form on behalf of all Class members associated with that particular household or location and shall represent and warrant, as a condition of receiving the relief offered by this Settlement Agreement, that:
- (i) there are no other claims related to mercury or Mercury Containing Equipment associated with such household or location or anticipated by them;
 - (ii) no Class member associated with that household or location has opted out of this Settlement Agreement;
 - (iii) all Class members associated with such household or location have been identified by the Responding Class Member on the form; and
 - (iv) the Responding Class Member is a member of the Class.

36. Plaintiffs' Counsel's Attorneys' Fees, Costs, and Named Plaintiffs' Awards. If the settlement receives Final Approval, Plaintiffs' Counsel will request the Court's approval of reasonable compensation for their services, costs and expenses, and for Named Plaintiffs' Awards in the amount of \$1,500.00 per Named Plaintiff group, all not to exceed \$ 450,000.00 (Four Hundred and Fifty Thousand Dollars) in total amount. Any and all amounts awarded to the Class Plaintiffs pursuant to Paragraph 34 of this Settlement Agreement shall not be counted as a part of the amount of attorneys' fees, costs, expenses, and named plaintiffs' awards approved by the Court (not to exceed \$450,000.00). All such amounts shall be paid by Nicor Gas to Lead Class Counsel within thirty (30) days after the Effective Date. Lead Class Counsel shall be responsible for distributing the amount amongst Plaintiffs' Counsel and the Named Plaintiffs. Out of such amount, Lead Class Counsel shall,

on behalf of all of the Defendants, distribute the sum of \$1,500.00 (One Thousand Five Hundred Dollars) to each Named Plaintiff group (the "Named Plaintiff Award"). However, no Named Plaintiff Award shall issue unless and until Lead Class Counsel and Nicor Gas have each received valid Acceptance of Payment forms, complying with the requirements set forth above in paragraph 35, from and on behalf of each such Named Plaintiff group.

37. Preliminary Approval of Settlement. As soon as practicable, but in any event within thirty (30) days after signing this Settlement Agreement, the parties shall join in an application to the Court for entry of an order (the "Preliminary Approval Order") substantially in the form of Exhibit B, which:

- (1) finds preliminarily that this Settlement Agreement is in good faith, fair, reasonable, adequate and in the best interests of the Class;
- (2) finds, upon consideration of all of the circumstances, that the Settlement is fair, reasonable and adequate and was made in good faith for purposes of 740 ILCS 100/2(c);
- (3) for purposes of this Settlement only:
 - (a) conditionally certifies the Class;
 - (b) conditionally designates the Class Plaintiffs as the Class Representatives;
 - (c) conditionally designates Ben Barnow and William Harte as Lead Class Counsel.
- (4) schedules a hearing for approximately 75 days after entry of the Preliminary Approval Order, or as soon thereafter as the parties may reasonably be heard, to determine the

fairness of this Settlement (the "Settlement Hearing") for Final Approval of this Settlement; and

- (5) finds that the Notice of Pendency of Class Actions, Proposed Class Settlement and Hearing, in substantially the same form as that attached to this Settlement Agreement as Exhibit A (or any other such notice as the Court may require) (the "Class and Settlement Notice"), is the only notice required and that such notice satisfies the requirements of due process and State and federal law.

38. Notice of Settlement. If the Court enters the Preliminary Approval Order, then Nicor Gas agrees to provide, within thirty (30) days thereafter, and shall bear the expenses of providing, Court-approved notice to Named Plaintiffs and Class members of the proposed Settlement Agreement in substantially the same form as Exhibit A to this Settlement Agreement, as follows: (a) mailing individual notice to Named Plaintiffs and Class members, by mailing said notice to the Nicor customer of record for households or locations at issue as identified in Nicor Gas's records; (b) publication of the proposed Settlement Agreement in the legal notice section of the Chicago Tribune and Chicago Sun Times newspapers for three separate calendar days spread over a two-week period; and (c) prominent display of the proposed Settlement Agreement on Nicor Gas's website for twenty (20) consecutive calendar days. The parties stipulate that this notification is the best practicable notice and is reasonably calculated to notify Class members of the proposed settlement. In addition to such other matters as the Court may require, the notices shall: (a) inform Named Plaintiffs and Class members of the material terms of the Agreement, including, for those Named Plaintiffs and Class members entitled to payment(s) pursuant to the terms of this Settlement Agreement, the amount(s) of such payment(s); (b) notify Named Plaintiffs and Class members that any objections to

the proposed settlement and/or to the proposed award of Plaintiffs' Counsel fees, costs and expenses, and/or Named Plaintiffs Awards, along with the reasons for said objection, must be served, in writing, upon Lead Class Counsel and counsel for Nicor Gas no later than the date that is ten days before the date of the Settlement Hearing at the addresses set forth in the notices; and (c) inform Named Plaintiffs and Class members that a final hearing to determine the fairness, reasonableness, and adequacy of the proposed settlement and the reasonableness of the proposed fee award to Plaintiffs' Counsel will be held at the date set by the Court.

39. Dismissal Order. Concurrent with the parties' application for Preliminary Approval, the parties will petition the Court for a Final Judgment and Order of Dismissal, substantially in the form attached hereto as Exhibit C, that will:

- (a) find that the notice to Named Plaintiffs and Class members in this action satisfies the requirements of due process and federal and state law;
- (b) find that the Settlement Agreement is fair, reasonable and adequate to Named Plaintiffs and Class members, find that each Named Plaintiff and each member of the Class shall be bound by this Settlement Agreement, including the release and covenant not to sue contained in Paragraph 42 of this Settlement Agreement, and conclude that this Settlement Agreement should be, and is, approved;
- (c) dismiss with prejudice all claims in the Amended Consolidated Class Action Complaint, or related by fact or law thereto, and permanently enjoin each and every Named Plaintiff and Class member from bringing, joining, and/or continuing to prosecute against Nicor Gas any claim that was, could have

been, or may be brought in this, or any other, Action or otherwise, for which a release is being given under Paragraph 42 of this Settlement Agreement; order any party violating the Court's injunction to pay costs and attorneys' fees incurred by any Released Party as a result of a violation of the Court's injunction, and enter Final Judgment thereon;

- (d) retain jurisdiction of all matters relating to the modification, interpretation, administration, implementation, effectuation and enforcement of this Settlement Agreement; and
- (e) award attorneys' fees, costs and expenses for Plaintiffs' Counsel and Named Plaintiffs Awards as provided in Paragraph 36.

40. Finality of Dismissal Order. This Final Judgment and Order of Dismissal shall be deemed final:

- (a) thirty (30) days after entry of Final Judgment thereon if no pleadings are filed within that time seeking appeal, review or rehearing of the Dismissal Order; or
- (b) if such pleadings are filed, after the date upon which all appellate and other proceedings resulting from such pleadings (including the time for filing all petitions for rehearing and for appeal or certiorari to the United States Supreme Court) have been finally terminated in such a manner as to permit the Final Judgment and Dismissal Order to take effect, without further appeal, in substantially the form described in Paragraph of this Settlement Agreement.

41. Disapproval of Settlement Agreement. In the event any court disapproves or sets aside this Settlement Agreement, or any material part hereof, for any reason, or declines to make a finding that the Settlement was made in good faith for purposes of 740 ILCS 100/2(c), or holds that it will not enter or give effect to the Final Judgment and Dismissal Order in substantially the form described in Paragraph 39 of this Settlement Agreement, or holds that the entry of the Dismissal Order or any material part thereof should be overturned or modified in any material way, then:

- (a) if all parties hereto do not agree jointly to appeal such ruling, this Settlement Agreement shall become null and void; the Pending Litigation may continue; and the parties shall move jointly that any and all orders entered pursuant to this Settlement Agreement be vacated; or
- (b) if all parties hereto do agree to jointly appeal such ruling, and if the Dismissal Order or its equivalent in all material respects is not in effect after the termination of all proceedings arising out of such appeal, this Settlement Agreement shall become null and void; the Pending Litigation may continue; and the parties shall move jointly that any and all orders entered pursuant to this Settlement Agreement be vacated.

42. Releases. Upon Final Approval of this Settlement Agreement, all Named Plaintiffs and all members of the Class who have not opted out of the Settlement Agreement, and their respective heirs, executors, administrators, representatives, agents, attorneys, employees, successors and assigns, shall be deemed to have released and forever discharged each and all of the following persons (collectively "Released Parties"): (i) Nicor Gas, and all of its current, former and future subsidiaries, divisions, successors, assigns, affiliates and parent corporations, and their current, former

or future directors, officers, and employees, and their heirs, executors, and administrators, and any and all representatives, shareholders, agents, accountants, attorneys, predecessors, successors and assigns of any of the foregoing, (ii) H&M and all of its current, former and future subsidiaries, divisions, successors, assigns, affiliates and parent corporations, and their current, former or future directors, officers, and employees, and their heirs, executors, and administrators, and any and all representatives, shareholders, agents, accountants, attorneys, predecessors, successors and assigns of any of the foregoing; and (iii) NPL and all of its current, former and future subsidiaries, divisions, successors, assigns, affiliates and parent corporations, and their current, former or future directors, officers, and employees, and their heirs, executors, and administrators, and any and all representatives, shareholders, agents, accountants, attorneys, predecessors, successors and assigns of any of the foregoing. Each Released Party shall be released from any and all manner of the following claims (the "Released Claims"): claims, disputes, actions, liabilities, rights or causes of actions, suits, set-offs, counterclaims, demands, or damages based upon any legal or equitable theory, right of action or otherwise, foreseen or unforeseen, known, unknown, or unknowable, suspected or unsuspected, matured or unmatured, accrued or not accrued, of any kind, nature, or description whatsoever, that the Named Plaintiffs or the Class members, or any of them, ever had, or now have, or may have based upon, in connection with, arising out of, or that are in any way, directly or indirectly, related to: (i) the claims alleged in the Amended Consolidated Class Action Complaint, including all dismissed claims; (ii) installation, maintenance, repair, presence, or removal of mercury and/or Mercury Containing Equipment, including but not necessarily limited to mercury regulators, manometers, and switches; (iii) Nicor Gas's investigation or remediation of mercury or its conduct of mercury related issues, and (iv) to the extent not otherwise covered by subparts (i)-(iii) of this

paragraph, claims related to a Known Illness. Notwithstanding the foregoing, no Named Plaintiff or Class member shall by operation of this Settlement Agreement release or waive claims of personal injury that relate to mercury or to Mercury Containing Equipment, except to the extent that such claims relate to a Known Illness. To the extent that any Named Plaintiff or Class member has pending litigation against any of the Defendants related to mercury and/or Mercury Containing Equipment, then each such Named Plaintiff or Class member (and each member of such Named Plaintiff or Class member's household) must dismiss any and all such actions with prejudice as a condition to receiving any of the relief offered under this Settlement Agreement.

43. Counterparts. This Settlement Agreement may be executed in one or more counterparts, each of which shall be an original and all of which shall be deemed to be one and the same Settlement Agreement. For convenience, the several signature pages may be collected and annexed to one or more documents to form a complete counterpart. Photocopies of executed copies of this Agreement may be treated as originals.

44. Binding Effect. Each and every term of this Settlement Agreement shall be binding upon, and inure to the benefit of, the Named Plaintiffs, the members of the Class, any of their successors and personal representatives, and the Defendants and the Released Parties; all of these persons and entities are intended to be beneficiaries of this Settlement Agreement.

45. Modification. This Settlement Agreement shall not be amended or modified orally. It may be amended or modified without the consent or approval of any non-signatory by a writing signed by both of the Lead Class Counsel signing this Settlement Agreement (or their successors) and at least one counsel of record for Nicor Gas. The ability of counsel of record to make such changes by their signatures is hereby authorized as between all parties to this Settlement Agreement.

Notwithstanding the foregoing, to the extent that such changes conflict or alter the material terms of any court order, then such changes shall not take effect until after they have received court approval.

46. Time Periods. The time periods and/or dates described in this Settlement Agreement with respect to the giving of notices and hearings as provided in this Settlement Agreement are subject to approval and change by the Court.

47. Document Return. The parties shall, within sixty (60) days of the Effective Date, return to the opposing party all documents and other materials that were furnished to them by the opposing party during the course of discovery and shall destroy all additional copies of such materials.

48. Exclusivity. This Settlement Agreement may not be relied upon for any purpose by, or create any rights in, any person who is not a Class member by definition or opt-out.

49. Governing Law. This Settlement Agreement shall be interpreted in accordance with the substantive laws of the State of Illinois.

50. Notice. As agents for the receipt of communications between all Class members who do not opt out of the Class and Nicor Gas relating to this Settlement Agreement, members of the Class appoint Ben Barnow of Barnow and Goldberg, P.C., 1 North LaSalle St., Suite 4600, Chicago, Illinois 60602, and William J. Harte, 111 West Washington St., Suite 1100, Chicago, Illinois 60602, and Nicor Gas appoints Herbert L. Zarov and Hugh R. McCombs, Mayer, Brown & Platt, 190 S. LaSalle St., Chicago, Illinois 60603. The persons and addresses designated in this paragraph as agents may be changed by the represented party by written notice to the other signatories hereto in accordance with this Paragraph.

51. Entire Agreement. This Settlement Agreement constitutes the full and entire agreement between the parties with regard to the subject hereof, and supersedes any prior

representations, promises, or warranties (oral or otherwise) made by any party. No party shall be liable or bound to any other party for any prior representation, promise or warranty (oral or otherwise) except for those expressly set forth in this Settlement Agreement.


52. Headings. The headings herein are for convenience only and shall not affect the interpretation or construction of this stipulation.

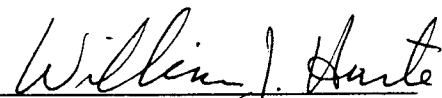
53. Authority. Each person executing this Settlement Agreement in a representative capacity hereby represents and warrants that he or she is fully authorized to do so by virtue of the capacity indicated.

54. Jurisdiction/Disputes. The parties hereto stipulate and agree that Judge Biebel shall retain jurisdiction to hear and determine all disputes arising under this Settlement Agreement.

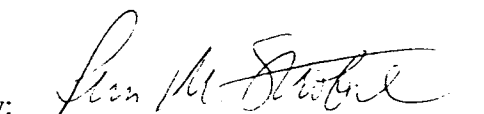
IN WITNESS WHEREOF, this Settlement Agreement has been executed by the undersigned this 10th day of October, 2001.

THE PLAINTIFF CLASS,

By: 
BEN BARNOW
CO-LEAD CLASS COUNSEL

By: 
WILLIAM J. HARTE
CO-LEAD CLASS COUNSEL

NORTHERN ILLINOIS GAS COMPANY,
d/b/a NICOR GAS COMPANY

By: 
Steven M. Stroh
Att. V. P. & Gen. Counsel