

REPORT ON EXAMINATION
OF
ENERGY INSURANCE MUTUAL LIMITED
TAMPA, FLORIDA

AS OF DECEMBER 31, 2008

BY THE
OFFICE OF INSURANCE REGULATION

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Tallahassee, Florida

July 2, 2009

Kevin M. McCarty
Commissioner
Office of Insurance Regulation
State of Florida
Tallahassee, Florida 32399-0326

Dear Sir:

Pursuant to your instructions, in compliance with Section 624.316, Florida Statutes, and in accordance with the practices and procedures promulgated by the National Association of Insurance Commissioners (NAIC), we have conducted an examination as of December 31, 2008, of the financial condition and corporate affairs of:

**ENERGY INSURANCE MUTUAL LIMITED
3000 BAYPORT PLAZA, SUITE 550
TAMPA, FLORIDA 33607**

Hereinafter referred to as the "Company". Such report of examination is herewith respectfully submitted.

SCOPE OF EXAMINATION

This examination covered the period of January 1, 2004, through December 31, 2008. The Company was last examined by representatives of the Florida Office of Insurance Regulation (Office) as of December 31, 2003. This examination commenced with planning at the Office on April 6, 2009, to April 10, 2009. The fieldwork commenced on April 13, 2009, and concluded as of July 2, 2009.

This financial examination was a statutory financial examination conducted in accordance with the Financial Condition Examiners Handbook, Accounting Practices and Procedures Manual and annual statement instructions promulgated by the NAIC as adopted by Rules 69O-137.001(4) and 69O-138.001, Florida Administrative Code, with due regard to the statutory requirements of the insurance laws and rules of the State of Florida.

The Financial Condition Examiners Handbook requires that the examination be planned and performed to evaluate the financial condition and identify prospective risks of the Company by obtaining information about the Company including corporate governance, identifying and assessing inherent risks within the Company, and evaluating system controls and procedures used to mitigate those risks. An examination also includes assessing the principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation and management's compliance with Statutory Accounting Principles and annual statement instructions when applicable to domestic state regulations.

Risk-focused examinations consist of a seven-phase process that can be used to identify and assess risk, assess the adequacy and effectiveness of strategies/controls used to mitigate risk and assist in determining the extent and nature of procedures and testing to be utilized in

order to complete the review of that activity. The process should generally include a determination of the quality and reliability of the corporate governance structure and risk management programs. In addition, it can be used for verification of specific portions of the financial statements or other limited-scope reviews, increased focus on, and can result in increased substantive testing of, accounts identified as being at high risk of misstatement. Conversely, the risk assessment process should result in decreased focus on, and fewer substantive tests on the accounts identified as being at low risk of misstatement. The risk-focused surveillance process can be used to assist examiners in targeting areas of high-risk.

In this examination, emphasis was directed to the quality, value and integrity of the statement of assets and the determination of liabilities, as those balances affect the financial solvency of the Company as of December 31, 2008. Transactions subsequent to year-end 2008 were reviewed where relevant and deemed significant to the Company's financial condition.

All accounts and activities of the Company were considered in accordance with the risk-focused examination process.

The examination included a review of the corporate records and other selected records deemed pertinent to the Company's operations and practices. In addition, the A.M. Best Report, the Company's independent audit reports and certain work papers prepared by the Company's independent certified public accountant (CPA) and other reports as considered necessary were reviewed and utilized where applicable within the scope of this examination.

This report of examination was confined to financial statements and comments on matters that involved departures from laws, regulations or rules, or which were deemed to require special

explanation or description.

Status of Adverse Findings from Prior Examination

The following is a summary of the adverse findings contained in the Office's prior examination report as of December 31, 2003, along with resulting action taken by the Company in connection therewith.

1. The Company did not submit updated Holding Company Registration Statements.

Resolution: Since 2007, the Company has annually filed the holding company registration statement reflecting events and occurrences determined to be material enough to disclose in accordance with Rule 69O-143.046(1), Florida Administrative Code.

2. The Company's reinsurance receivable balance included unsecured receivables from unauthorized reinsurers.

Resolution: The Company's response to the Office stated that sufficient collateral existed for \$57.4 million of the \$58.9 million in question and was negotiating with another reinsurer who discontinued a relationship with the Company in 2003. The remaining unsecured amounts were too small for the Company to pursue their securitization. The current examination determined that the Company did not fully comply with this directive. The current collateral involved with unsecured reinsurance balances recoverable was reviewed and

found to be sufficient in all instances at December 31, 2007 except for amounts recoverable from Nuclear Energy Insurance Limited (NEIL). At December 31, 2003 the examination found that about \$8,300,000 recoverable from NEIL was unsecured. The unsecured amount substantially increased during the current five-year period under review while the amount of collateral remained unchanged. This is discussed further in the report under the sub-caption "Reinsurance". This is a repeat violation under Section 628.913(1)(b), Florida Statutes. The issue was resolved subsequently when the Company established a trust account covering the unsecured amounts.

HISTORY

General

The Company was incorporated on June 13, 1986, as a mutual insurance company under the Companies Act of Barbados, British West Indies, and commenced business on July 1, 1986. It obtained a license to engage in exempt insurance business, in accordance with the provisions of the Exempt Insurance Act of Barbados, 1983. On June 9, 1988, the Company became authorized in the State of Florida as an Industrial Insured Captive Insurer to provide insurance to its members. On August 12, 2003, the Company amended its Articles as it applied for and was granted a license to operate as a Qualifying Insurance Company under the Insurance Act 1992 of Barbados. Membership in the Company was available to any electric or gas utility company that met the underwriting standards established by the Company.

The By-laws were not amended during the period covered by this examination.

Exemption from Certain Sections of the Florida Insurance Code

Pursuant to Section 628.909(1) Florida Statutes, the Company, as an alien industrial captive insurer, was exempt from compliance with the Florida Insurance Code except for the specific Sections noted in Section 628.909(3), Florida Statutes.

Profitability of Company

The following table shows the profitability trend (in dollars) of the Company for the five year period under examination, as reported in the filed annual statements.

	<u>2008</u>	<u>2007</u>	<u>2006</u>	<u>2005</u>	<u>2004</u>
Premiums Earned	\$ 101,789,000	\$ 115,539,000	\$ 119,835,000	\$ 124,883,000	\$ 124,265,000
Net Income/(Loss)	(22,736,000)	13,144,000	33,085,000	44,725,000	(930,000)
Total Assets	1,549,697,000	1,716,962,000	1,601,801,000	1,402,676,000	1,367,297,000
Total Liabilities	(1,082,377,000)	(1,049,901,000)	(965,810,000)	(855,139,000)	(878,785,000)
Surplus As Regards Policyholders	467,320,000	667,061,000	635,991,000	547,537,000	488,512,000

Management

The annual Membership meeting for the election of directors was held in accordance with Sections 607.1601 and 628.231, Florida Statutes. Directors serving as of December 31, 2008, were:

Directors

<u>Name and Location</u>	<u>Principal Occupation</u>
Trevor. A. Carmichael Barbados, West, Indies	Barrister at Law Chancery Chambers, Chancery House
Mark S. Dodson Portland, Oregon	Northwest Natural Gas Company, Retired
Kimberly S. Greene Knoxville, Tennessee	Chief Financial Officer and Executive VP, Financial Services Tennessee Valley Authority

David L. Hadler Tampa, Florida	President and Chief Executive Officer Energy Insurance Mutual Limited
James R. Hatfield Phoenix, Arizona	Senior Vice President and Chief Financial Officer Pinnacle West Capital Corporation
Holly K. Koeppel Columbus, Ohio	Executive Vice President and Chief Financial Officer American Electric Power Service Corporation
Allen L. Leverett Milwaukee, Wisconsin	Executive Vice President and Chief Financial Officer Wisconsin Energy Corporation
Richard H. Marsh Akron, Ohio	Senior Vice President and Chief Financial Officer First Energy Corp.
J. Barry Mitchell Chicago, Illinois	President and Chief Operating Officer Com Ed
Michael W. O'Donnell Merriville, Indiana	Executive Vice President and Chief Financial Officer NiSource Inc.
Dudley C. Reynolds Birmingham, Alabama	President and Chief Operating Officer Alabama Gas Corporation
Charles W. Shivery Berlin, CT	Chairman, President, and Chief Executive Officer Northeast Utilities

The Board of Directors, in accordance with the Company's By-laws appointed the following senior officers in 2008:

Senior Officers

<u>Name</u>	<u>Title</u>
Charles W. Shivery	Chairman of the Board
James R. Hatfield	Vice Chairman of the Board
David L. Hadler	President and Chief Executive Officer
Samuel M. Garvin, Jr.	Vice President and Chief Financial Officer
Joan Bryant	Corporate Secretary
Jill C. Dominguez	Vice President-Underwriting
Robert P. Schmid (Rob)	Vice President-Subsidiary Operations
Trevor A. Carmichael	Assistant Secretary

The Company's Board appointed several internal Committees in accordance with Section

607.0825, Florida Statutes. Following are the principal internal Board Committees and their members as of December 31, 2008:

Executive Committee

Charles W. Shivery *
James R. Hatfield
Mark S. Dodson
David L. Hadler

Audit Committee

James R. Hatfield *
Kimberly S. Greene
Holly Keller Koepfel
Allen L. Leverett
Michael W. O'Donnell
Dudley C. Reynolds

Investment Committee

J. Barry Mitchell *
James R Hatfield
Mark S. Dodson
Allen L. Leverett
Richard H. Marsh

Nominating Committee

James R. Hatfield *
Kimberly S. Greene
Holly Keller Koepfel
J. Barry Mitchell

Claims Committee

Mark S. Dodson *
Dudley C. Reynolds
David L. Hadler
J. Barry Mitchell

Reinsurance Committee

Richard H. Marsh *
Kimberly S. Greene
David L. Hadler
J. Barry Mitchell

Insurance Advisory Committee

Deborah S.(Debbie) Gaffney *
Randall L. (Randy) Martin
Mark E. Blair
Robert W. (Bob) Dillard
Jack R. Hadsall
Sandra K. (Sandi) Hart
Julie R. Jackson
Gary Y. Little
John E. Lulev
Robert J. (Bob) Semet

Strategic Planning Committee

Mark S. Dodson *
Charles W. Shivery
Deborah S. Gaffney
David L. Hadler
Michael W. O'Donnell
William R. Powell
Dudley C. Reynolds

* - Designates Chairman of each Committee

Conflict of Interest Procedure

The Company adopted a policy statement requiring annual disclosure of conflicts of interest by its Board members. The Company complied with its conflict of interest policy throughout the five year period currently under examination.

Corporate Records

The recorded minutes of the shareholder, Board of Directors, and certain internal Committees were reviewed for the period under examination. The recorded minutes of the Board adequately documented its meetings and approval of Company transactions.

Acquisitions, Mergers, Disposals, Dissolutions, and Purchase or Sales Through Reinsurance

There were no acquisitions, mergers, disposals, dissolutions, purchases or sales through reinsurance.

Surplus Debentures

The Company had no surplus debentures.

AFFILIATED COMPANIES

The Company was a member of an insurance holding company system as defined by Rule 69O-143.045(3), Florida Administrative Code. The yearend 2008 holding company registration statement filed with the State of Florida was dated June 2, 2009, as required by Section 628.801, Florida Statutes, and Rule 69O-143.046, Florida Administrative Code.

Since 2007, the Company has filed the holding company registration statement with the Office disclosing what it determined to be material per Rule 69O-143.046, Florida Administrative Code. However, the Company does not have a policy in place to annually file the holding company registration statement annually as the Office has requested of other insurers.

It was also noted that the holding company registration statements filed were incorrect in that

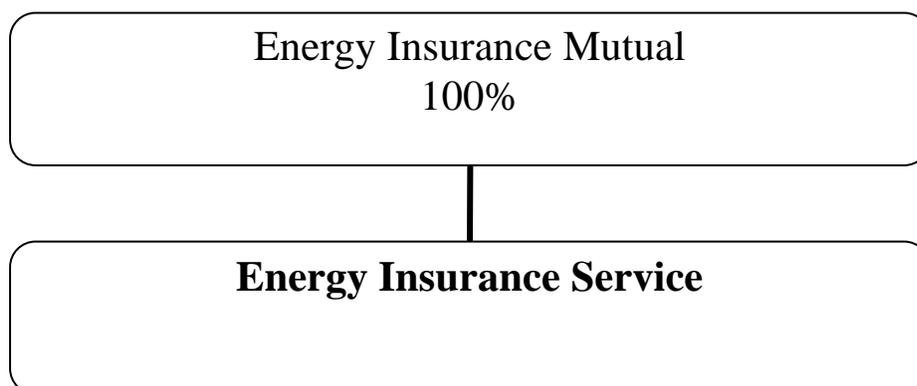
they disclose the existence of a service contract that no longer is active and they do not disclose the tax allocation agreement between the Company and its wholly owned subsidiary. Energy Insurance Services Inc. (EIS), that became effective in May 2005.

Subsequent Event: On June 29, 2009, the Company filed an amended holding company registration statement with the correct information disclosed.

A simplified organizational chart as of December 31, 2008, reflecting the holding company system, is shown below.

**Energy Insurance Mutual Limited
ORGANIZATIONAL CHART**

DECEMBER 31, 2008



The following agreements were in effect between the Company and Energy Insurance Services (EIS):

Tax Allocation Agreement

The tax allocation agreement between the Company and EIS became effective in May 2005. Since then the Company and EIS have filed it federal income taxes on a consolidated basis.

The method of allocation of the net recoverable / payable amount between the two companies was based upon the assumption that each entity files its federal income taxes separately.

FIDELITY BOND AND OTHER INSURANCE

The Company maintained fidelity bond coverage up to \$1,000,000 with a deductible of \$10,000. This coverage was determined to be below NAIC minimum coverage requirement by \$500,000.

Other insurance coverages maintained by the Company were:

- Management Liability and Company Reimbursement (Includes Directors & Officers and Errors and Omissions Liability) - \$10.0 million per occurrence \$70.0 million aggregate
- Commercial Excess and Umbrella - \$10.0 per occurrence and aggregate.
- Workers' Compensation \$500,000 per occurrence and aggregate.
- Commercial Auto Insurance Liability - \$1.0 million per occurrence and aggregate, Physical Damage - Actual Cost, Comprehensive - \$5,000 per occurrence, Car for Hire – Liability \$5,000, Physical Damage Actual Cost.

PENSION, STOCK OWNERSHIP AND INSURANCE PLANS

The Company had a qualified 401(k) retirement plan for the benefit of their employees. The Company also had an employee medical and dental plan.

STATUTORY DEPOSITS

The Company maintained a security deposit with the State of Florida, in accordance with Section 624.411, Florida Statutes:

STATE	Description	Par Value	Market Value
FL	Certificate of Deposit 2.97% Due 6/9/09	\$ 300,000	\$ 300,000

INSURANCE PRODUCTS AND RELATED PRACTICES

Territory and Plan of Operation

The Company was formed to provide insurance to its Membership which is available to any electric or gas producer or provider that meets its underwriting standards. As of December 31, 2008 the Company had 175 Members. In accordance with Section 628.905, Florida Statutes, the Company is authorized to transact the following insurance coverage, in Florida:

- Liability (includes General Liability, Directors & Officers Liability, General Partners Liability and Fiduciary Liability)
- Property

The Company's liability program attaches at \$35.0 million and offers coverage above the attachment point of up to:

- \$100.0 million for General Liability
- \$50.0 million for Directors & Officers Liability, General Partners Liability
- \$25.0 million for Fiduciary Liability

The Company property program has no minimum attachment point and provides \$35.0 million of Property coverage on non-nuclear properties.

The Company was only authorized to transact insurance business in the State of Florida, however, as a surplus lines insurer, it can seek eligibility to write surplus lines insurance coverage in other States without a certificate of authority. The Company currently is eligible to

insure risks in all 50 States, Commonwealths and the District of Columbia. As of December 31, 2008 the Company was eligible to write surplus lines insurance in the District of Columbia and all States and Commonwealths except:

Connecticut	Massachusetts	Rhode Island
Illinois	Michigan	South Carolina
Indiana	New Hampshire	Vermont
Iowa	New Mexico	Virginia
Maine	Pennsylvania	Wyoming

All coverages were offered on a claims made basis. The Company used independent brokers to market its products.

Treatment of Policyholders

The Company had an established procedure for handling written complaints in accordance with Section 626.9541(1) (j), Florida Statutes.

The Company's claim handling procedure was analyzed during the course of the examination and it complied with the requirements of Section 626.9541(1) (i) 3a, Florida Statutes.

REINSURANCE

Assumed Reinsurance

Since 1999, the Company has assumed a insurance risk from Associated Energy and Gas Insurance Service (AEGIS). These assumptions are in two different layers of the same coverage program which provided aggregate protection for the first \$10 million of the AEGIS's \$35 million of coverage. The assumption percentages, layers and attachment points have varied each year. Since 2002 the Company's assumption percentage had remained at a

quota share 10%. The following chart reflects the Company's attachment points and applicable layers for the five year period under review.

<u>Year</u>	<u>Layer 1</u>	<u>Layer 2</u>
2004	\$100.0m xs \$350.0m	\$100.0m xs \$450.0m
2005	\$100.0m xs \$400.0m	\$100.0m xs \$500.0m
2006	\$100.0m xs \$435.0m	\$100.0m xs \$535.0m
2007	\$ 85.0m xs \$450.0m	\$100.0m xs \$535.0m
2008	\$ 85.0m xs \$450.0m	\$100.0m xs \$535.0m

During each of the five years this assumed business contributed to around 1% of the Company's gross written premium.

Ceded Reinsurance

Liability Program

The Company used excess of loss reinsurance to protect the Company from severe losses on its liability book of business. Per an arrangement in effect at December 31, 2008, the Company retained the first \$5 million of each and every loss made after which it ceded away 100% of all such realized losses to an aggregate maximum of \$250 million with respect of General Liability and \$81.1 million with respect of Directors and Officers, General Partner and Fiduciary Liability.

The Company also had a separate reinsurance arrangement in effect at December 31, 2008, with Nuclear Electric Insurance Limited (NEIL) that pertained only to the Directors' & Officers' and General Partners book of business. Per this arrangement, the Company ceded away on a quota share basis 80% of \$20.0 million of losses made (\$16.0 million) in excess of \$30.0 million of liability the Company realized.

Property Program

The Company's property program in effect at December 31, 2008, reinsured primarily through NEIL on a per risk basis. After the Company retained the first \$5.0 million on any loss made, the contract allowed the cession a quota share 80% of the next \$25.0 million of realized loss (\$20,000,000).

The Company also had an arrangement with NEIL whereby its non-nuclear property book of business was fronted by EIM. Per risk maximum on this block of business was \$300,000,000. Section 624.404 (4), Florida Statutes, disallowed such fronting arrangements with unauthorized reinsurers unless approval was obtained from the Office. Since NEIL was an unauthorized reinsurer in Florida, the Company sought and obtained approval of the fronting arrangement from the Office provided that, pursuant to Section 628.913 Florida Statutes, sufficient collateral was in place to offset unsecured recoverable amounts from NEIL. At December 31, 2008, the \$50,000,000 of collateral in place was determined to be insufficient by \$87,600,000, a violation of Section 628.913 Florida Statutes.

Subsequent Event:

In June 2009, the Company received approval from the Office on the trust account proposal with NEIL. The trust account was executed on July 24, 2009 and filed with the Office August 14, 2009. This resolved the insufficient collateral situation that existed with NEIL.

All the Company's reinsurance agreements complied with NAIC standards with respect to the standard insolvency clause, arbitration clause, transfer of risk, reporting and settlement information.

ACCOUNTS AND RECORDS

The Company maintained its principal operational offices in Tampa, Florida, where this examination was conducted.

An independent CPA audited the Company's statutory basis financial statements annually for the years 2003 through 2008, in accordance with Section 624.424(8), Florida Statutes. Supporting work papers were prepared by the CPA as required by Rule 69O-137.002, Florida Administrative Code.

The Company's accounting records were maintained on a computerized system. The Company's balance sheet accounts were verified with the line items reflected in the Company's financial statements submitted to the Office.

The Company had the following agreements in place with non-affiliated entities:

Custodial Agreement

The Company maintained several custodial agreements with fund managers operating out of State Street Bank and Trust Company, Boston, MA. The agreements contained all the necessary controls and safeguards in place in accordance with the requirements of Rule 69O-143.042, Florida Administrative Code.

Trust Account Agreement

The Company maintained a trust agreement with State Street Bank and Trust Company for the purpose of qualifying the Company as an eligible or approved excess or surplus lines insurer in accordance with the NAIC. The trust was established in the United States to act as security for policyholders' and third party claimants.

Independent Auditor Agreement

The Company had annually contracted with an external CPA firm to perform the annual audit, of its financial position as required by Rule 690-137.002(7) (c), Florida Administrative Code. The Company changed firms in 2005 to maintain compliance with Rule 690-137.002(7) (c), Florida Administrative Code, which indicated a company cannot use the same auditing partner for more than seven consecutive audits.

Investment Advisory Services

Since 1988, investment management and advisory services had been provided to the Company per a contract with Frank Russell Services Inc. In February 2009 the Company replaced its investment manager with Merrill Lynch.

Public Relations Agreement

The Company maintained a public relations agreement with Summar & Associates/Atkinson Public Relations, Inc.

Actuarial Agreement

The Company had contracted Towers Perrin to provide all necessary actuarial services.

Information Technology Report

Tracy Gates from Highland Clark, LLC performed an evaluation of the information technology and computer systems of the Company. Results of the evaluation were noted in the Information Technology Report provided to the Company.

FINANCIAL STATEMENTS PER EXAMINATION

The following pages contain financial statements showing the Company's financial position as of December 31, 2008, and the results of its operations for the year then ended as determined by this examination. Adjustments made as a result of the examination are noted in the section of this report captioned, "Comparative Analysis of Changes in Surplus."

ENERGY INSURANCE MUTUAL LIMITED
Assets

DECEMBER 31, 2008

	<u>Per Company</u>	<u>Examination Adjustments</u>	<u>Per Examination</u>
Investments Available for Sale	\$ 921,433,000		\$ 921,433,000
Investment in Subsidiary	1,682,000		1,682,000
Cash and Cash Equivalents	71,347,000		71,347,000
Reinsurance Recoverable	448,775,000		448,775,000
Prepaid Reinsurance Premium	46,714,000		46,714,000
Accrued Investment Income	5,936,000		5,936,000
Fixed Assets	548,000		548,000
Prepaid Expenses	518,000		518,000
Due From Subsidiary	187,000		187,000
Premiums Receivable	708,000		708,000
Deferred Policy Acquisition Costs	1,052,000		1,052,000
Federal Income Tax Receivable	11,273,000		11,273,000
Net Deferred Tax Asset	39,524,000		39,524,000
Totals	<u>\$ 1,549,697,000</u>	<u>\$0</u>	<u>\$ 1,549,697,000</u>

ENERGY INSURANCE MUTUAL LIMITED
Liabilities, Surplus and Other Funds

DECEMBER 31, 2008

	<u>Per Company</u>	<u>Examination Adjustments</u>	<u>Per Examination</u>
Reserve for Loss and Loss adjustment expenses	\$ 964,061,000		\$ 964,061,000
Unearned Premium Reserve	100,195,000		100,195,000
Reinsurance Premiums Payable	10,612,000		10,612,000
Payable for Securities Purchased	4,761,000		4,761,000
Accounts Payable and Accrued Expenses	2,748,000		2,748,000
Total Liabilities	\$ 1,082,377,000	\$0	\$ 1,082,377,000
Accumulated Other Comprehensive (Loss) Income	\$ (3,421,000)		\$ (3,421,000)
Members' Account Surplus	470,741,000		470,741,000
Surplus as regards policyholders	\$ 467,320,000	\$0	467,320,000
Total liabilities, surplus and other funds	\$ 1,549,697,000	\$0	\$ 1,549,697,000

ENERGY INSURANCE MUTUAL LIMITED
Statement of Income

DECEMBER 31, 2008

Underwriting Income

Premiums earned		
Direct written premiums	\$	179,636,000
Assumed written premiums		2,386,000
Change in unearned premiums		2,174,000
Ceded earned premiums		<u>(82,407,000)</u>
Net premiums earned	\$	101,789,000
Other underwriting income		2,120,000
Deductions:		
Loss and loss adjustment expenses		
Gross losses and loss adjustment expenses incurred		255,309,000
Assumed losses and loss adjustment expenses incurred		478,000
Ceded losses and loss adjustment expenses		<u>(119,622,000)</u>
	\$	136,165,000
Other underwriting expenses		1,658,000
Administrative expenses		<u>9,027,000</u>
Total expenses	\$	<u>146,850,000</u>

Investment Income

Net investment income		
Net realized (loss):		
Realized gain (loss) on investments sold		151,000
Realized loss on investments deemed other than temporarily impaired		<u>(40,772,000)</u>
Net realized loss	\$	(40,621,000)
Net investment gain or (loss)		<u>40,081,000</u>
Total revenues	\$	<u>103,369,000</u>
Net Loss Before Dividends to Policyholders and Before Federal & Foreign Income Taxes	\$	(43,481,000)
Dividends to policyholders		<u>0</u>
Net Loss After Dividends to Policyholders and before federal & foreign income taxes	\$	(43,481,000)
Federal & foreign income taxes		
Current		3,992,000
Deferred		<u>16,753,000</u>
Total federal income tax benefit	\$	<u>20,745,000</u>
Net (loss)	\$	<u>(22,736,000)</u>

Capital and Surplus Account

Surplus as regards policyholders, December 31, 2007	\$	667,061,000
Net Loss		(22,736,000)
Net unrealized capital gains or losses		(150,601,000)
Less: reclassification adjustment for net (losses) gains realized in net income, net of income taxes		<u>(26,404,000)</u>
Net Decrease in Surplus for the Year	\$	(199,741,000)
Surplus as regards policyholders, December 31, 2008	\$	<u>467,320,000</u>

COMMENTS ON FINANCIAL STATEMENTS

Assets

Reinsurance Recoverable

\$448,775,000

The above referenced amount was what the Company reflected as recoverable amounts from reinsurers in the financial statements of December 31, 2008. The amount included an estimated \$87.9 million of unsecured recoverable from Nuclear Energy Insurance Limited (NEIL) an unauthorized reinsurer in Florida. Section 628.913 Florida Statutes indicated that sufficient collateral was to be in place for recoverable amounts from unauthorized insurers.

In 2008 the Company initiated measures to resolve this situation through the establishment of a trust account. The trust account proposal was approved by the Office in June 2009 (see Subsequent Events).

Liabilities

Reserve for Losses and Loss Adjustment Expenses

\$964,061,000

An outside actuarial firm appointed by the Board of Directors, rendered an opinion that the amounts carried in the balance sheet as of December 31, 2008, made a reasonable provision for all unpaid loss and loss expense obligations of the Company under the terms of its policies and agreements. An actuarial firm contracted by Highland Clark, LLC reviewed work papers provided by the Company and was in concurrence with this opinion.

Capital and Surplus

The amount reported by the Company was \$467,320,000 as of December 31, 2008. The Company as an industrial captive insurer was exempt from the minimum capital and surplus requirements of Section 624.408, Florida Statutes.

A comparative analysis of changes in surplus is shown below.

ENERGY INSURANCE MUTUAL LIMITED

COMPARATIVE ANALYSIS OF CHANGES IN SURPLUS

DECEMBER 31, 2008

The following is a reconciliation of Surplus as regards policyholders between that reported by the Company and as determined by the examination.

Surplus as Regards Policyholders December 31, 2008, per Annual Statement				\$467,320,000
	<u>PER COMPANY</u>	<u>PER EXAMINATION</u>	<u>INCREASE (DECREASE) IN SURPLUS</u>	
ASSETS:				
No Adjustment Necessary	\$0	\$0	\$0	
LIABILITIES:				
No Adjustment Necessary	\$0	\$0	\$0	
Net Change in Surplus:				<u>0</u>
Surplus as Regards Policyholders December 31, 2008, Per Examination				<u><u>\$467,320,000</u></u>

SUMMARY OF FINDINGS

Compliance with previous directives

The examination findings determined the Company did not comply with all the findings reflected in the 2003 examination report issued by the Office. The Company did not increase the amount of collateral required to sufficiently secure reinsurance balances recoverable from NEIL in accordance with Section 628.913(1)(b), Florida Statutes. (See Subsequent events.)

Current examination comments and corrective action

The following is a brief summary of the item of interest and corrective action to be taken by the Company regarding findings in the examination as of December 31, 2008.

General

The Company does not have a policy in place to file the holding company registration statement required by Rule 690-143.046, Florida Administrative Code on an annual basis.

We recommend the Company establish a policy to ensure that in the future the holding Company registration statement is filed on an annual basis.

CONCLUSION

The insurance examination practices and procedures as promulgated by the NAIC have been followed in ascertaining the financial condition of Energy Insurance Mutual, LLC as of December 31, 2008, consistent with the insurance laws of the State of Florida.

Per examination findings, the Company's Surplus as regards policyholders was \$467,320,000, in compliance with Section 628.903, Florida Statutes.

In addition to the undersigned Perry L. DiCastrì, CPA, CFE, Examiner-in-Charge; Frank A. Jones, Reinsurance/Financial Specialist; Tracy Gates, Information Technology Specialist and Joseph R. Peiso, ARe, participated in the examination. Ms. Laura Martin of The Actuarial Advantage Inc. provided the required actuarial services for the examination. We also recognize the participation of Highland Clark, LLC in the examination.

Respectfully submitted,

Kathessa Carpenter, CPA
Financial Examiner/Analyst Supervisor
Florida Office of Insurance Regulation