

Town of Brighton et al. v. Icon Energy, LLC d/b/a Source Power Company

NOTICE OF PENDING CLASS ACTION AND PROPOSED SETTLEMENT

READ THIS NOTICE FULLY AND CAREFULLY; THE PROPOSED SETTLEMENT MAY AFFECT YOUR RIGHTS!

IF YOU WERE ENROLLED IN THE TOWN OF BRIGHTON’S COMMUNITY CHOICE AGGREGATION PROGRAM (THE “CCA PROGRAM”) WITH ICON ENERGY, LLC D/B/A SOURCE POWER (“DEFENDANT”) BETWEEN JANUARY 1, 2021 AND DECEMBER 31, 2022, THEN YOU MAY BE ENTITLED TO A PAYMENT FROM A CLASS ACTION SETTLEMENT

The Supreme Court of the State of New York, Monroe County, has authorized this Notice; it is not a solicitation from a lawyer.

SUMMARY OF YOUR OPTIONS AND THE LEGAL EFFECT OF EACH OPTION	
DO NOTHING	If you don’t do anything, you will receive a payment from the Settlement Fund so long as you do not opt-out of or exclude yourself from the Settlement (described in the next box).
EXCLUDE YOURSELF FROM THE SETTLEMENT; RECEIVE NO PAYMENT, BUT RELEASE NO CLAIMS	You can choose to exclude yourself from the Settlement or “opt-out.” This means you choose not to participate in the Settlement. You will keep your individual claims against Defendant, but you will not receive a payment. If you exclude yourself from the Settlement but want to recover against Defendant, you will have to file a separate lawsuit or claim. The deadline to exclude yourself from the Settlement is May 31, 2025.
OBJECT TO THE SETTLEMENT	You can file an objection with the Court explaining why you believe the Court should reject the Settlement. If your objection is overruled by the Court, then you may receive a payment and you will not be able to sue Defendant for the claims asserted in this litigation. If the Court agrees with your objection, then the Settlement may not be approved. The deadline to object to the Settlement is May 16, 2025.

These rights and options – *and the deadlines to exercise them* – along with the material terms of the Settlement are explained in this Notice.

QUESTIONS? CALL (833) 215-9289 OR VISIT www.BrightonIconSettlement.com

BASIC INFORMATION

1. What is this lawsuit about?

The lawsuit that is being settled is entitled *Town of Brighton, on its own behalf and on behalf of eligible and participating customers, Joule Assets Inc., and William W. Moehle, Raymond J. Tierney, III, George L. Smith, and Gail M. Seigel, Ph.D. v. Icon Energy LLC d/b/a Source Power Company* (N.Y. Sup. Ct., Monroe Cty.) Index No. E2022010511. The case is a “class action.” That means that the “Class Representatives,” William W. Moehle, Raymond J. Tierney, III, George L. Smith, and Gail M. Seigel, Ph.D., are individuals who are acting on behalf of themselves and other residents of the Town of Brighton, New York, who, by virtue of not opting out, were enrolled in the Town’s CCA Program between January 1, 2021 and December 31, 2022. The Class Representatives have asserted claims for breach of contract and deceptive practices, and seeking declaratory and monetary relief.

2. Why did I receive this Notice of this lawsuit?

You received this Notice because the Town of Brighton’s (the “Town”) records indicate that you were enrolled in the CCA Program that is the subject of this action. The Court directed that this Notice be sent to all Settlement Class Members because each such member has a right to know about the proposed Settlement and the options available to them before the Court decides whether to approve the Settlement.

3. Why did the parties settle?

In any lawsuit, there are risks and potential benefits that come with a trial versus settling at an earlier stage. It is the Class Representatives’ and their lawyers’ job to identify when a proposed Settlement offer is good enough that it justifies recommending settling the case instead of continuing to trial. In a class action, the Class Representatives’ lawyers, known as “Class Counsel” (the lawyers representing Plaintiffs), make this recommendation to the Class Representatives. The Class Representatives have the duty to act in the best interests of the class as a whole and, in this case, it is their belief, as well as Class Counsel’s opinion, that this Settlement is in the best interest of all Settlement Class Members.

There is legal uncertainty about whether a judge or a jury will find that Defendant was contractually and otherwise legally obligated to provide the fixed rates for electricity under the Electricity Supply Agreement or engaged in deceptive business practices. And even if that was the case, there is uncertainty about whether the Class Representatives’ claims are subject to other defenses that might result in no or less recovery to Settlement Class Members. Even if the Class Representatives were to win at trial, there is no assurance that the Settlement Class Members would be awarded more than the current Settlement amount and it may take years of litigation before any payments would be made. By settling, the Settlement Class Members will avoid these and other risks and the delays associated with continued litigation. While Defendant disputes the allegations in the lawsuit and denies any liability or wrongdoing, it enters into the Settlement solely to avoid the expense, inconvenience, and distraction of further proceedings in the litigation.

WHO IS IN THE SETTLEMENT

4. How do I know if I am part of the Settlement?

If you received this notice, then the Town's records indicate that you are a member of the Settlement Class who is entitled to receive a payment.

YOUR OPTIONS

5. What option do I have with respect to the Settlement?

You have three options: (1) do nothing and you will receive a payment according to the terms of this Settlement; (2) exclude yourself from the Settlement ("opt-out" of it); or (3) participate in the Settlement, but object to it. Each of these options is described in a separate section above.

6. What are the critical deadlines?

There is no deadline to receive a payment. If you do nothing, then you will get a payment.

The deadline for sending a letter to exclude yourself from or opt-out of the Settlement is May 31, 2025.

The deadline to file an objection with the Court is May 16, 2025.

7. How do I decide what option to choose?

If you do not like the Settlement and you believe that you could receive more money by pursuing your claims on your own (with or without an attorney that you could hire) and you are comfortable with the risk that you might lose your case or get less than you would in this Settlement, then you may want to consider opting out.

If you believe the Settlement is unreasonable, unfair, or inadequate and the Court should reject the Settlement, you can object to the Settlement terms. The Court will decide if your objection is valid. If the Court agrees, then the Settlement may not be approved and no payments will be made to you or any other member of the Settlement Class. If your objection (and any other objection) is overruled, and the Settlement is approved, then you may still get a payment, and will be bound by the Settlement.

If you want to participate in the Settlement, then you don't have to do anything; you will receive a payment if the Settlement is approved by the Court.

8. What has to happen for the Settlement to be approved?

The Court has to decide that the Settlement is fair, reasonable, and adequate before it will approve it. The Court already has decided to provide preliminary approval of the Settlement, which is why you received a Notice. The Court will make a final decision regarding the Settlement at a "Fairness Hearing" or "Final Approval Hearing," which is currently scheduled for September 8, 2025 at 11:00 a.m.

THE SETTLEMENT PAYMENT

9. How much is the Settlement?

Defendant has agreed to create a Settlement Fund of \$1,000,000.00. Attorneys' fees and litigation costs, will **NOT** be paid out of the Settlement Fund, but will instead be paid by the Town of Brighton. Costs paid to a third-party Settlement Administrator to administer the Settlement (including mailing and emailing notice) **WILL** be paid out of the Settlement Fund. The Settlement Fund will be divided among all Settlement Class Members entitled to Settlement Class Member Payments based on the allocation described in the Settlement Agreement.

10. How much will my payment be?

The Settlement Fund described above will be allocated to those Settlement Class Members whose participation in the CCA Program ceased prior to June 15, 2022 (the "Participating Class Members") in the amount of \$40.00 each, and to those Settlement Class Members participating in the CCA Program as of June 15, 2022 (the "Transferred Class Members"), a pro rata portion of the Class Settlement Amount not allocated to the Participating Class Members and not allocated for payment of costs to administer the Settlement, which correlates to the amount paid for electricity between June 15, 2022 and December 31, 2022 using rates maintained by Rochester Gas and Electric that exceeded the fixed rate provided for in the Electricity Supply Agreement by and among the Town, Joule, and Defendant, dated October 7, 2020. Settlement Class Members will receive a check from the Settlement Administrator.

11. Do I have to do anything if I want to participate in the Settlement?

No. If you received this Notice, then you may be entitled to receive a payment without having to make a claim, unless you choose to exclude yourself from or "opt-out" of the Settlement.

Alternatively, pursuant to Chapter 55 of the Town Code of the Town of Brighton, the Town established the CCA Program to, among other things, promote the sustainability and resilience of energy systems through the proliferation of renewable energy, energy efficiency, and Distributed Energy Resources. In furtherance of the purpose of the CCA Program, the Settlement provides that the total amount of uncashed checks shall be paid by the Settlement Administrator to the Town, which amounts shall be deposited in a Town account for purposes of furthering of the Town's sustainability goals as may be determined by the Town Board of the Town of Brighton. Thus, to the extent you choose to participate in the Settlement but do not cash the check, the amount will revert to the Town to further its sustainability goals.

12. When will I receive payment?

The Court will hold a "Final Approval Hearing" on September 8, 2025 at 11:00 a.m. to consider whether the Settlement should be approved. If the Court approves the Settlement, then payments should be made or credits should be issued approximately 90 days later. However, if someone objects to the Settlement, and the objection is sustained, then there is no Settlement. Even if all objections are overruled and the Court approves the Settlement, an objector could appeal, and it might take months or even years to have the appeal resolved, which would delay any payment.

EXCLUDING YOURSELF FROM THE SETTLEMENT

13. How do I exclude myself from the Settlement?

If you do not want to receive a payment or if you want to keep any right you may have to sue Defendant for the claims alleged in this lawsuit, then you must exclude yourself, or “opt-out.”

To opt-out, you must send a letter to the Settlement Administrator that you want to be excluded. Your letter can simply say “I hereby elect to be excluded from the Settlement in the *Town of Brighton et al. v. Icon Energy, LLC d/b/a Source Power Company* class action. Be sure to include your name, address, telephone number, and email address. Your exclusion or opt-out request must be postmarked by May 31, 2025 and sent to:

Town of Brighton v. Icon Energy, LLC
c/o Settlement Administrator
P.O. Box 16
West Point, PA 19486

14. What happens if I opt-out of the Settlement?

If you opt-out of the Settlement, you will preserve and not give up any of your rights to sue Defendant for the claims alleged in this case. However, you will not be entitled to receive a payment from the Settlement.

15. How do I notify the Court that I do not like the Settlement?

You can object to the Settlement or any part of it that you do not like **IF** you do not exclude yourself, or opt-out, from the Settlement. (Settlement Class Members who exclude themselves from the Settlement have no right to object to how other Settlement Class Members are treated.) To object, you must send a written document by first class mail, postage pre-paid, to the Settlement Administrator. Your objection must include the following information:

- a. the name of the Action;
- b. the objector’s full name, address, and telephone number;
- c. all grounds for the objection, accompanied by any legal support for the objection known to the objector or objector’s counsel;
- d. the number of times the objector has objected to a class action Settlement within the five years preceding the date that the objector files the objection, the caption of each case in which the objector has made such objection, and a copy of any orders related to or ruling upon the objector’s prior objections that were issued by the trial and appellate courts in each listed case;
- e. the identity of all counsel who represent the objector, including any former or current counsel who may be entitled to compensation for any reason related to the objection to the Settlement or fee application;
- f. the number of times in which the objector’s counsel and/or counsel’s law firm have objected to a class action settlement within the five years preceding the date of the filed objection, the caption of each case in which counsel or the firm has made such objection and a copy of any orders related to or ruling

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upon counsel's or the counsel's law firm's prior objections that were issued by the trial and appellate courts in each listed case in which the objector's counsel and/or counsel's law firm have objected to a class action settlement within the preceding five years;

g. any and all agreements that relate to the objection or the process of objecting—whether written or oral—between objector or objector's counsel and any other person or entity;

h. the identity of all counsel (if any) representing the objector who will appear at the Final Approval Hearing, and the address and telephone number of any identified counsel;

i. a list of all persons who will be called to testify at the Final Approval Hearing in support of the objection;

j. a statement confirming whether the objector intends to personally appear and/or testify at the Final Approval Hearing; and

k. the objector's signature (an attorney's signature is not sufficient).

All objections must be post-marked no later than May 16, 2025, and must be mailed to the Settlement Administrator as follows:

Town of Brighton v. Icon Energy, LLC
c/o Settlement Administrator
P.O. Box 16
West Point, PA 19486

16. What is the difference between objecting and requesting exclusion from the Settlement?

Objecting is telling the Court that you do not believe the Settlement is fair, reasonable, and adequate for the Settlement Class, and asking the Court to reject it. You can object only if you do not opt-out of the Settlement. If you object to the Settlement and do not opt-out, then you are entitled to a payment if the Settlement is approved, but you will release claims you might have against Defendant. Excluding yourself or opting-out is telling the Court that you do not want to be part of the Settlement, and do not want to receive a payment or release claims you might have against Defendant for the conduct alleged in this lawsuit.

17. What happens if I object to the Settlement?

If the Court sustains your objection, or the objection of any other member of the Settlement Class, then there is no Settlement. If you object, but the Court overrules your objection and any other objection(s), then you will be part of the Settlement.

THE COURT'S FINAL APPROVAL HEARING

18. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Approval or Fairness Hearing at 11:00 a.m. on September 8, 2025 via Microsoft Teams. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The hearing will be virtual. The instructions to participate will be posted on the website at www.BrightonIconSettlement.com.

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19. Do I have to come to the hearing?

No. Class Counsel will answer any questions the Court may have. You may attend if you desire to do so. If you have submitted an objection, then you may want to attend.

20. May I speak at the hearing?

If you have objected, you may ask the Court for permission to speak at the Final Approval Hearing. To do so, you must include with your objection, described in Question 15, above, the statement, “I hereby give notice that I intend to appear at the Final Approval Hearing.”

THE LAWYERS REPRESENTING YOU

21. Do I have a lawyer in this case?

The Court ordered that the lawyers and their law firm referred to in this notice as “Class Counsel” will represent you and the other Settlement Class Members that do not opt-out.

22. Do I have to pay the lawyer for accomplishing this result?

No. Class Counsel will be paid directly by the Town of Brighton.

GETTING MORE INFORMATION

This Notice only summarizes the proposed Settlement. More details are contained in the Settlement Agreement, which can be viewed/obtained online at www.BrightonIconSettlement.com.

For additional information about the Settlement and/or to obtain copies of the Settlement Agreement, or to change your address for purposes of receiving a payment, you should contact the Settlement Administrator as follows:

Town of Brighton v. Icon Energy, LLC
c/o Settlement Administrator
P.O. Box 16
West Point, PA 19486

For more information, you also can contact Class Counsel as follows:

Mancuso Brightman PLLC
160 Allens Creek Road, Suite 260
Rochester, New York 14618
585-301-4777
jmancuso@mbnylaw.com

PLEASE DO NOT CONTACT THE COURT OR ANY REPRESENTATIVE OF DEFENDANT
CONCERNING THIS NOTICE OR THE SETTLEMENT.

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