

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NEW YORK**

EBON BONNETTE, KHALID BOSTON,  
DONNA COX, MARY DIXON, ODESSA  
DIXON, ROBERT ELLIS, MICHAEL FOSTER,  
JEREL GRIFFIN, MARK HALE, JEAN  
HOWARD, BERTHA JOHNSON, ELLEN  
JOHNSON, STEPHANIE JOHNSON, JOHNNY  
KEGLER, MARY LALOR-TIMMONS,  
MARCIA LANE, ROBERT LANE, GAIL  
MARSHALL-JOHNSON, THOMAS MOORE,  
DELRAY MORGAN, DELORES PRAD,  
TONEY PROCTOR, WILLIE SANDERS,  
LOLITA SMITH, BRETT STEVENSON,  
EVERLENE THOMPSON, OPHELIA  
TISDALE, RICHARD WALFORD, WANDA  
WEBB, PATRICIA WHITE, ROBERT  
WILLIAMS and BONNIE WRIGHT,  
individually and on behalf of all others  
similarly situated,

Plaintiffs,

v.

ROCHESTER GAS & ELECTRIC CO.,

Defendant.

CIVIL ACTION NO.: 6:07-cv-06635-MAT

**NOTICE OF CLASS ACTION  
SETTLEMENT**

**THIS IS A NOTICE OF A PROPOSED CLASS ACTION  
SETTLEMENT FROM THE UNITED STATES DISTRICT  
COURT FOR THE WESTERN DISTRICT OF NEW YORK**

**PLEASE READ THIS NOTICE CAREFULLY.  
THIS NOTICE MAY AFFECT YOUR LEGAL RIGHTS.**

This Notice is being sent to you, as ordered by the United States District Court for the Western District of New York, to advise you of the preliminary approval of the settlement of an employment discrimination class action against Rochester Gas & Electric Co. (“RG&E”). You have received this Notice because RG&E’s records reflect that you are African American and were employed by RG&E between May 24, 2002 and October 1, 2006 (the “Class Period”), and therefore may be a Class Member in the lawsuit. The purpose of this Notice is to provide you with a summary of the proposed settlement, and to advise you of your rights with respect to the proposed settlement.

## **I. Important Deadlines**

- To participate in the monetary relief portion of the settlement, and receive any money to which you may be entitled, you must mail a Claim Form to the Claims Administrator postmarked no later than March 27, 2008. A Claim Form and return envelope are included in this Notice packet.
- If you want to exclude yourself from the settlement (that is, not receive any monetary relief from the settlement, and not be bound by the judgment and release), you must mail an opt-out statement to the Claims Administrator postmarked by March 27, 2008.
- If you want to object to the settlement, or some part of the settlement, you must mail your written objection to the Claims Administrator post-marked by March 27, 2008. You may object and still participate in the settlement.

## **II. Summary Of Litigation**

The Plaintiffs (*i.e.*, the people who filed this lawsuit), claim that RG&E discriminated against African Americans: 1) by paying African Americans less than white employees of similar experience and qualifications; 2) by failing to promote African Americans at the same rate as similarly qualified white employees; 3) by disproportionately terminating and taking other disciplinary actions against African Americans; 4) by creating a racially hostile work environment for African Americans; and 5) by retaliating against employees who complained about the discrimination. RG&E denies any liability or wrongdoing of any kind associated with the claims alleged in this lawsuit.

## **III. Litigation And Settlement Background**

In September 2005, a group of African American employees of RG&E retained Class Counsel and requested that they begin an investigation as to whether RG&E was engaged in a pattern or practice of discrimination against its African American employees. Subsequently, some of these African American employees filed charges of discrimination against RG&E with the United States Equal Employment Opportunity Commission (the "EEOC"), and the New York Division of Human Rights.

On January 13, 2006, Plaintiffs advised RG&E in writing of the class nature of the allegations made by their clients, requested that RG&E preserve all relevant evidence, and indicated that Plaintiffs were open to potentially resolving this matter through a pre-filing alternative dispute resolution ("ADR") mechanism. The parties ultimately agreed to an ADR process which included extensive discovery.

The parties then engaged in a series of meetings in which they discussed and agreed on the scope of discovery to be produced in order to allow informed settlement discussions to

proceed. Ultimately, RG&E produced thousands of pages of documents, including the hard copy personnel files of many of the Plaintiffs, as well as RG&E's relevant human resource policies and equal employment opportunity policies. RG&E also produced an electronic copy of its human resource ("HR") database.

Plaintiffs retained a prominent labor economist and statistician to analyze RG&E's HR database and to determine whether there were statistically significant disparities affecting African American Class Members. Plaintiffs later produced the results of that investigation to RG&E, along with a sample of detailed individual claim summaries. The individual Plaintiffs were very much involved in this process, gave statements, and regularly responded to requests for information from Class Counsel and RG&E.

After exchanging large amounts of information, the parties began settlement discussions. Numerous meetings took place between April 2007 and November 2007. Ultimately, the parties agreed to settle the litigation on the terms set forth below. Based upon their investigation, Class Counsel have concluded that the terms of the settlement are fair, reasonable, adequate, and in the best interests of the Class. In reaching this conclusion, Class Counsel have analyzed the benefits of the settlement and the risk of an unfavorable outcome (*i.e.*, losing), as well as the expense and length of continued proceedings necessary to prosecute this action. RG&E does not admit any wrongdoing or liability by entering into this settlement, and has agreed to these settlement terms because it wishes to avoid further costly, disruptive, and time-consuming litigation, and desires to obtain complete and final settlement of the claims of the Plaintiffs and Class Members.

#### **IV. Injunctive Relief -- Summary Of Employment Practices Affected By The Proposed Settlement With RG&E**

a. RG&E will not retaliate in any way against any of the Class Representatives or Proposed Class Members who participated in this action;

b. within 60 days of the Effective Date, RG&E will redistribute to all of its employees, its written policies on Equal Employment Opportunity and a Harassment Free workplace. The distribution shall be accompanied by a written statement reiterating the Company's commitment to and support of these policies;

c. within 365 days of the Effective Date, RG&E will provide training to its managers about its EEO and anti-harassment policies;

d. RG&E's internal complaint procedure will continue to provide for the prompt and full investigations of any complaints of employment discrimination;

e. RG&E will continue to use its best efforts to ensure that its compensation practices are applied in a non-discriminatory fashion; and

f. RG&E will continue to use its best efforts to ensure that its disciplinary practices are applied in a non-discriminatory fashion.

## **V. Money Being Paid By RG&E**

In addition to the steps described above, RG&E has agreed to pay \$2 million to resolve the Class Action. From this \$2 million, each of the named Plaintiffs will receive an award of \$15,000 to compensate them for their time involved in this matter, filing charges of discrimination with the EEOC (where applicable), and filing this lawsuit. Class Counsel will petition the Court for an award of attorneys' fees constituting 33% of the monetary portion of the settlement, and reimbursement of their out-of-pocket litigation expenses which are currently \$79,594.61. Costs of providing this notice to the class and administering the settlement will also be paid from the \$2 million Settlement Fund. The remainder of the Settlement Fund will be paid to the Class Representatives and Class Members who fill out a Claim Form as set forth below and as set forth in the Settlement Agreement.

## **VI. How To Make A Claim For Money**

If you think that you are entitled to a share of the monetary award because you believe that RG&E discriminated against you on the basis of your race, then you may be eligible to receive money from this settlement. **You will only receive money if you submit a written Claim Form to the Claims Administrator, signed under oath, and postmarked by March 27, 2008.** If you do not submit a claim form postmarked by March 27, 2008, then you will not receive any money from the settlement. However, even if you do not submit a claim form, you will still be bound by the settlement and release, unless you opt out, or exclude yourself, from the settlement.

A Claim Form and return envelope is included in this Notice packet. Make sure to carefully answer all questions. Finally, sign and date the Claim Form, and return it in the return envelope postmarked no later than March 27, 2008. Those Claim Forms that are submitted on time will be evaluated by a Claims Administrator, and payments will be made to Class Members on the basis of the answers provided in the Claim Forms, pursuant to a formula approved by the Court.

## **VII. Release Of Claims**

If the Court grants final approval of the settlement, then all Class Members who do not opt out will release RG&E for all employment discrimination claims certified by the Court in the lawsuit, pursuant to Paragraph 1.15 and Section IX of the Settlement Agreement. When claims are "released," that means that a person covered by the release cannot sue RG&E for any of the claims that are covered by the release. Nothing in the settlement will be construed to release claims of Participating Class Members which may not be legally waived or that post-date the Effective Date of the Settlement Agreement. By this Notice, you are advised to consult with class counsel or an attorney of your choosing regarding your participation in this Settlement.

By participating in the Class Settlement, you acknowledge that:

- you are participating in the settlement voluntarily and knowingly in exchange for the injunctive and monetary covenants and promises described in parts V and VI of this Notice.
- the injunctive and monetary covenants and promises described in parts V and VI of this Notice are an adequate exchange for the Release of Claims defined in Paragraph 1.15 of the Settlement Agreement.
- you were provided with a reasonable period of time within which to consider the Settlement Agreement, which is available for your review.

### **VIII. Can I “Opt-Out” Or Ask To Be Excluded From This Settlement?**

If you want to opt out or exclude yourself from this settlement, you must send a letter requesting exclusion to RG&E Claims Administrator, HEFFLER, RADETICH & SAITTA LLP, 1515 Market Street, Suite 1700, Philadelphia, PA, 19102. Your exclusion request must be postmarked by March 27, 2008. If you exclude yourself from this settlement, you will not be eligible to receive any money. If you exclude yourself, you will not be legally bound by the Court’s judgments in this class action.

### **IX. The Settlement Process And Final Fairness Hearing**

Every class action must be approved by the court that presided over the class action lawsuit. Thus far, the Court has only decided that the proposed settlement may be fair and, therefore, justifies the distribution of this Notice. In order to decide whether to give final approval to the proposed settlement, the Court will consider related papers and comments submitted by the parties or others and hold a hearing in open court. A Final Fairness Hearing will be held on May 7, 2008, at 10:00 a.m. in the Courtroom #1 of Judge Michael A. Telesca, United States District Court, Western District of New York, 2120 U.S. Courthouse, 100 State Street, Rochester, NY 14614. You may, but are not required to, attend this hearing. You may also enter an appearance in the case through your own attorney, if you so desire. You may also submit any objections to the proposed settlement in writing. For any such written objections to be considered, they must be mailed to RG&E Claims Administrator, HEFFLER, RADETICH & SAITTA LLP, 1515 Market Street, Suite 1700, Philadelphia, PA, 19102, and postmarked by March 27, 2008. Please do not send any comments directly to the Court or attempt to reach the Judge in person. You may, however, review a copy of the Settlement Agreement at the Clerk’s Office at the Court (100 State Street, Rochester, NY 14614), or online at [www.hrsclaimsadministration.com](http://www.hrsclaimsadministration.com).

If you have any questions concerning this settlement, you may contact the Claims Administrator, as follows:

RG&E Claims Administrator  
HEFFLER, RADETICH & SAITTA LLP  
1515 Market Street, Suite 1700  
Philadelphia, PA, 19102  
Tel: 1-800-768-8450

You may also contact Class Counsel, as follows:

SHANON J. CARSON, ESQ.  
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**PLEASE DO NOT CONTACT THE COURT.**

**/s/ HON. Michael A. Telesca**