

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

ROBERT HAMLLEN,

Plaintiff,

v.

GATEWAY ENERGY SERVICES
CORPORATION,

Defendant.

Civil Action

Case No: 7:16-cv-03526-VB-JCM

ANTHONY WAGAR,

Plaintiff,

v.

GATEWAY ENERGY SERVICES
CORPORATION,

Defendant.

Case No: 7:18-cv-10244

NOTICE OF CLASS ACTION AND PROPOSED SETTLEMENT

This Notice is to inform you of a proposed class action settlement of the above-captioned lawsuits and *Eisig, et al. v. Gateway Energy Services Corporation*, Index No. 605739/2016 (Sup. Ct. Nassau Cnty. 2016) (collectively, “Actions). GATEWAY ENERGY SERVICES CORPORATION (“Gateway” or “Defendant”) customers who received residential variable rate electricity and/or natural gas service may be eligible for an average cash benefit of \$78.80. As described below, this settlement is on behalf of all persons who enrolled in a Gateway variable rate plan and paid Gateway variable rates for electricity and/or natural gas supplied in any of the following states, during the Class Period beginning on the dates listed below through April 5, 2019.

State	Electricity	Natural Gas
New York	November 2012 ¹	July 2011
New Jersey	November 2012	July 2011
Pennsylvania	November 2012	November 2012
Maryland	November 2015	November 2015
Virginia	N/A	November 2013
Kentucky	N/A	July 2011
Ohio	N/A	July 2011

Customers who enrolled in a fixed rate plan with Gateway at any time are excluded from this proposed class action settlement.

¹ All dates are the dates invoices were generated for customers.

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Gateway’s records indicate that you are a member of the Class. This Notice affects your legal rights and is given to you pursuant to Rule 23 of the Federal Rules of Civil Procedure. Please read this document carefully. **IF YOU ARE A MEMBER OF THIS CLASS OF PERSONS, YOU SHOULD READ THIS NOTICE CAREFULLY BECAUSE IT WILL AFFECT YOUR LEGAL RIGHTS AND OBLIGATIONS.**

<p>SUBMIT A CLAIM FORM</p>	<p>This is the only way to get a Settlement Payment under the Settlement.</p> <p>Submit an online Claim Form at www.GatewayEnergySettlement.com by using the Notice ID and Confirmation Code on the front of the postcard mailed to you. You can also download a Claim Form to submit by mail at www.GatewayEnergySettlement.com or receive one by calling 1-833-780-5120. You can also submit the postage prepaid Claim Form that was provided with the postcard notice you received.</p>	<p>Deadline: August 1, 2019</p>
<p>EXCLUDE YOURSELF</p>	<p>If you exclude yourself from the Settlement, you will not receive a Settlement Payment under the Settlement. Excluding yourself is the only option that allows you to ever bring or maintain your own lawsuit against Gateway regarding the allegations in the Actions ever again.</p>	<p>Deadline: August 1, 2019</p>
<p>OBJECT</p>	<p>You may write to the Court about why you object to (<i>i.e.</i>, do not like) the Settlement and think it should not be approved. Filing an objection does not exclude you from the Settlement.</p>	<p>Deadline: August 1, 2019</p>
<p>DO NOTHING</p>	<p>You will not receive a Settlement Payment under the Settlement. You will also give up your right to object to the Settlement and you will be not be able to be part of any other lawsuit about the legal claims in the Actions.</p>	<p>N/A</p>

- These rights and options—**and the deadlines to exercise them**—are explained in more detail below.
- The Court in charge of these Actions has preliminarily approved the Settlement and must decide whether to give final approval to the Settlement. The relief provided to Class Members will be provided only if the Court gives final approval to the Settlement and, if there are any appeals, after the appeals are resolved in favor of the Settlement. ***Please be patient.***

BACKGROUND INFORMATION	4
1. Why did I get this notice?	
2. What are the lawsuits about?	
3. Why are the lawsuits class actions?	
4. Why is there a Settlement?	
5. How do I know if I am part of the Settlement?	
6. I'm still not sure if I am included.	
THE PROPOSED SETTLEMENT.....	5
7. What relief does the Settlement provide to the Class Members?	
HOW TO REQUEST A SETTLEMENT PAYMENT.....	6
8. How can I get a Settlement Payment?	
9. When will I get a Settlement Payment?	
THE LAWYERS IN THESE CASES AND THE REPRESENTATIVE PLAINTIFFS.....	6
10. Do I have a lawyer in these cases?	
11. How will the lawyers be paid?	
12. Will the Representative Plaintiffs receive any compensation for their efforts in bringing the lawsuits?	
DISMISSAL OF ACTIONS AND RELEASE OF ALL CLAIMS.....	6
13. What am I giving up to obtain relief under the Settlement?	
HOW TO EXCLUDE YOURSELF FROM THE SETTLEMENT.....	7
14. How do I exclude myself from the Settlement?	
HOW TO OBJECT TO THE SETTLEMENT.....	7
15. How do I tell the Court that I do not like the Settlement?	
16. What is the difference between excluding myself and objecting to the Settlement?	
FAIRNESS HEARING.....	8
17. What is the Fairness Hearing?	
18. When and where is the Fairness Hearing?	
19. May I speak at the Fairness Hearing?	
ADDITIONAL INFORMATION.....	9
20. How do I get more information?	
21. What if my address or other information has changed or changes after I submit a Claim Form?	

1. *Why did I get this notice?*

You received this Notice because a Settlement has been reached between the parties in the Actions. According to Gateway's available records, you are a member of the Settlement Class and are eligible for the relief detailed below.

This Notice explains the nature of the Actions, the general terms of the proposed Settlement, and your legal rights and obligations. To obtain more information about the Settlement, including information about how you can see a copy of the Settlement Agreement (which defines certain capitalized terms used in this Notice), see Section 20 below.

2. *What are the lawsuits about?*

This settlement resolves class actions against Gateway, entitled *Hamlen v. Gateway Energy Services Corporation* (S.D.N.Y.), *Wagar v. Gateway Energy Services Corporation* (S.D.N.Y.), and *Eisig, et al. v. Gateway Energy Services Corporation*, Index No. 605739/2016 (Sup. Ct. Nassau Cnty. 2016). Plaintiffs Robert Hamlen, Anthony Wagar, and David Eisig (the "Representative Plaintiffs") sued Gateway individually and on behalf of all others similarly situated. They allege that Gateway set its variable rates for electricity and natural gas contrary to its obligations under its contracts and applicable laws. Gateway denies any and all liability and/or any wrongdoing alleged.

The issuance of this Notice is not an expression of the Court's opinion on the merits or the lack of merits of the Representative Plaintiffs' claims in the lawsuits.

For information about how to learn about what has happened in the lawsuits to date, please see Section 20 below.

3. *Why are the lawsuits class actions?*

In a class action lawsuit, one or more people called "Representative Plaintiff(s)" (in the Actions, Robert Hamlen, Anthony Wagar, and David Eisig) sue individually and on behalf of other people who have similar claims. For purposes of this proposed Settlement, one court will resolve the issues for all Class Members. The company sued in the Actions, Gateway, is called the Defendant.

4. *Why is there a Settlement?*

The Representative Plaintiffs have made claims against Gateway. Gateway denies that it has done anything wrong or illegal and admits no liability. The Court has **not** decided that the Representative Plaintiffs or Gateway should win the lawsuits. Instead, both sides agreed to a Settlement. That way, they avoid the cost of a trial, and the Class Members will receive relief now rather than years from now, if at all.

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

The Court has decided that everyone who fits this description is a Class Member for purposes of the proposed Settlement: all persons who enrolled in a Gateway residential variable rate plan and paid Gateway variable rates for electricity and/or natural gas supplied in any of the following states, during the Class Period beginning on the dates listed below through April 5, 2019.

State	Electricity	Natural Gas
New York	November 2012 ²	July 2011
New Jersey	November 2012	July 2011

² All dates are the dates invoices were generated for customers.

State	Electricity	Natural Gas
Pennsylvania	November 2012	November 2012
Maryland	November 2015	November 2015
Virginia	N/A	November 2013
Kentucky	N/A	July 2011
Ohio	N/A	July 2011

Excluded from the Class are any non-residential Gateway Customers, any customers of Gateway’s parents, subsidiaries, or affiliates; Gateway; any of its parents, subsidiaries, or affiliates; any entity controlled by any of them; any officer, director, employee, legal representative, predecessor, successor, or assignee of Gateway; any person who has previously released claims that will be released by this Settlement; and federal, state, and local governments (including all agencies and subdivisions thereof, but excluding employees thereof) and the judge to whom the Actions is assigned and any member of his or her immediate family. Also excluded from the Class are all persons who enrolled in a fixed rate plan with Gateway at any time.

6. *I’m still not sure if I am included.*

If you are still not sure whether you are included, you can contact the Claims Administrator for free help about whether you are a Class Member. The email address of the Claims Administrator is Info@GatewayEnergySettlement.com, the U.S. postal (mailing) address is **Gateway Variable Rate Plan Settlement, Attn: Claims Administrator, 1650 Arch Street, Suite 2210, Philadelphia, PA 19103**, and the toll-free telephone number is **1-833-780-5120**. A search function is also available on the website www.GatewayEnergySettlement.com to determine if you are included.

THE PROPOSED SETTLEMENT

7. *What relief does the Settlement provide to the Class Members?*

Each class member may elect to receive a Settlement Payment in the form of a check. The *average* cash benefit is \$78.80 for each class member who received electric supply service from Gateway, and \$78.80 for each class member who received natural gas supply service from Gateway. Your *actual* benefit will vary depending upon your usage of Gateway service during the Class Period. The specific amount of a customer’s check will be calculated this way: the customer will receive a cash benefit of \$.00333 per kilowatt hour for electric supply service received and/or \$.02509 per therm (or therm equivalent) for natural gas supply service received, while on a Gateway variable rate plan during the Class Period. For example, a customer who used 5,000 kWh of electricity will receive a check in the amount of \$16.65 and a customer who used 5,000 therms of natural gas will receive \$125.45. If the total value of all valid claims submitted exceed \$9,250,000, then each customer’s cash payment will be reduced proportionately based on the customer’s electric and/or natural gas supply use while on a variable plan.

In exchange for the relief outlined above, class members who do not opt out of the settlement (as described below) will relinquish their right to bring claims on their own behalf, including claims for monetary relief, and Class members will not be able to sue Gateway on the same or any related claims. The proposed settlement does not mean that any law was violated or that Gateway did anything wrong. Plaintiff and Class Counsel think the proposed settlement is fair and in the best interests of all Class members.

HOW TO REQUEST A SETTLEMENT PAYMENT

8. *How can I get a Settlement Payment?*

To qualify for a Settlement Payment, you must send in a Claim Form by the deadline. A Claim Form is available by clicking [HERE](#) or on the Internet at the website www.GatewayEnergySettlement.com. The Claim Form may be submitted electronically or by postal mail. Read the instructions carefully, fill out the form, and postmark it by **August 1, 2019** or submit it online not later than **11:59 p.m. (Eastern) on August 1, 2019**.

9. *When will I get a Settlement Payment?*

As described in Sections 17 and 18 below, the Court will hold a hearing on **September 13, 2019 at 10:30 A.M.**, to decide whether to approve the Settlement. If the Court approves the Settlement, after that, there may be appeals. It's always uncertain whether these appeals can be resolved, and resolving them can take time, perhaps more than a year. You can check on the progress of the Actions on the website dedicated to the Settlement at www.GatewayEnergySettlement.com. *Please be patient.*

THE LAWYERS IN THESE CASES AND THE REPRESENTATIVE PLAINTIFFS

10. *Do I have a lawyer in these cases?*

The Court has ordered that the law firms of Finkelstein, Blankinship, Frei-Pearson & Garber LLP, and Kohn, Swift & Graf, P.C. ("Class Counsel"), will represent the interests of all Class Members. You will not be separately charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

11. *How will the lawyers be paid?*

Gateway has agreed to pay attorneys' fees of up to \$2,543,750, and litigation expenses of up to \$100,000, subject to approval by the Court. You will not be required to pay any attorneys' fees or costs. The Court will make the final decision as to the amount to be paid.

12. *Will the Representative Plaintiffs receive any compensation for their efforts in bringing the Actions?*

The Representative Plaintiffs will request a service award (also known as "Named Plaintiff Enhancement Award") of up to \$5,000 each for their services as class representatives and efforts in bringing the lawsuits. The Court will make the final decision as to the amount to be paid to the Representative Plaintiffs.

DISMISSAL OF ACTIONS AND RELEASE OF ALL CLAIMS

13. *What am I giving up to obtain relief under the Settlement?*

If the Court approves the proposed Settlement, unless you exclude yourself from the Settlement, you will be releasing your claims against Gateway. This generally means that you will not be able to file a lawsuit, continue prosecuting a lawsuit, or be part of any other lawsuit against Gateway regarding the allegations in the Actions. The Settlement Agreement, available on the Internet at the website www.GatewayEnergySettlement.com contains the full terms of the release.

HOW TO EXCLUDE YOURSELF FROM THE SETTLEMENT

14. *How do I exclude myself from the Settlement?*

Any potential Class Member who desires to be excluded from the Settlement Class must give written notice of the election to Opt-Out on or before the date specified in the Preliminary Approval Order, with copies mailed to the Settlement Administrator, Class Counsel, and counsel for Gateway. Opt-Out requests must: (i) be signed by the Class Member who is requesting exclusion; (ii) include the full name, address, and phone number(s) of the Class Member requesting exclusion; and (iii) include the following statement: "I/We request to Opt-Out from the settlement in the Gateway Actions." No Opt-Out request will be valid unless all of the information described above is included. If you timely request exclusion from the Class, you will be excluded from the Class, you will not be bound by the judgment entered, and you will not be precluded from prosecuting any timely, individual claim against Gateway based on the conduct complained of in the lawsuits.

HOW TO OBJECT TO THE SETTLEMENT

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

At the date, time, and location stated in Section 18 below, the Court will hold a Fairness Hearing to determine if the Settlement is fair, reasonable, and adequate, and to also consider Class Counsel's request for an award of attorneys' fees and costs, and service awards to the Representative Plaintiffs.

If you wish to object to the fairness, reasonableness, or adequacy of the Settlement Agreement or the proposed Settlement, you must submit a written objection to the Court, Class Counsel, and Gateway's Counsel listed below, postmarked no later than **August 1, 2019**.

COURT	CLASS COUNSEL	GATEWAY'S COUNSEL
Clerk of Court The Hon. Charles L. Briant Jr. Federal Building and United States Courthouse 300 Quarropas St. White Plains, NY 10601-4150	D. Greg Blankinship Todd Garber Antonino B. Roman Chantal Khalil Finkelstein, Blankinship, Frei- Pearson & Garber LLP 445 Hamilton Avenue, Suite 605 White Plains, NY 10601 and Jonathan Shub Kevin Laukaitis Kohn, Swift & Graf, P.C. 1600 Market Street, Suite 2500 Philadelphia, PA 19103	Michael D. Matthews, Jr. McDowell Hetherington LLP 1001 Fannin Street, Suite 2700 Houston, TX 77002

Any Objection must (a) attach documents establishing, or provide information sufficient to allow the Parties to confirm that the objector is a Class Member; (b) include a statement of such Class Member's specific Objection; (c) state the grounds for the Objection; (d) identify any documents such objector desires the Court to consider; and (e) provide all information requested on the Claim Form. In addition, any Settlement Class Member objecting to the Settlement must provide a list of all other Objections submitted by the objector, or

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the objector's counsel, to any class action settlements submitted in any Court in the United States in the previous five years. If the Settlement Class Member or his/her or its counsel has not objected to any other class action settlement in the United States in the previous five years, he/she or it shall affirmatively so state in the Objection. You may, but need not, submit your objection through counsel of your choice. If you do make your objection through an attorney, you will be responsible for your personal attorney's fees and costs.

IF YOU DO NOT TIMELY MAKE YOUR OBJECTION, YOU WILL BE DEEMED TO HAVE WAIVED ALL OBJECTIONS AND WILL NOT BE ENTITLED TO SPEAK AT THE FAIRNESS HEARING.

If you submit a written objection, you may appear at the Fairness Hearing, either in person or through personal counsel hired at your expense, to object to the Settlement Agreement. You are not required, however, to appear. If you, or your attorney, intend to make an appearance at the Fairness Hearing, you must include on your timely and valid written objection a statement substantially similar to "Notice of Intention to Appear."

16. *What is the difference between excluding myself and objecting to the Settlement?*

Objecting is simply telling the Court that you don't like something about the Settlement. You can object only if you stay in the Settlement Class. Excluding yourself is telling the Court that you don't want to be part of the Settlement Class. If you exclude yourself, you have no basis to object because the Settlement no longer affects you.

FAIRNESS HEARING

17. *What is the Fairness Hearing?*

The Court has preliminarily approved the Settlement and will hold a Fairness Hearing (also known as a "Final Approval Hearing") to decide whether to give final approval to the Settlement. The purpose of the Fairness Hearing will be for the Court to determine whether the Settlement should be approved as fair, reasonable, adequate, and in the best interests of the Settlement Class; to consider the award of attorneys' fees and expenses to Class Counsel; and to consider the request for service awards to the Representative Plaintiffs.

18. *When and where is the Fairness Hearing?*

The Court will hold the Fairness Hearing at **10:30 a.m. on September 13, 2019** in Courtroom 620 of The Hon. Charles L. Briant Jr., Federal Building and United States Courthouse, 300 Quarropas St., White Plains, NY 10601-4150. The hearing may be postponed to a different date or time or location without notice. Please check www.GatewayEnergySettlement.com for any updates about the Settlement generally or the Fairness Hearing specifically. If the date or time of the Fairness Hearing changes, an update to the Settlement website will be the only way you will be informed of the change.

19. *May I speak at the hearing?*

At that hearing, the Court will be available to hear any objections and arguments concerning the fairness of the Settlement.

You may attend, but you do not have to. As described above in Section 15, you may speak at the Fairness Hearing only if (a) you have timely served and filed an objection, and (b) you have timely and validly provided a Notice of Intent to Appear.

If you have requested exclusion from the Settlement, however, you may not speak at the Fairness Hearing.

ADDITIONAL INFORMATION

20. How do I get more information?

To see a copy of the Settlement Agreement, the Court's Preliminary Approval Order, Class Counsel's application for attorneys' fees and costs, and the operative complaints filed in the lawsuits, please visit the Settlement website located at: **www.GatewayEnergySettlement.com**. Alternatively, you may contact the Claims Administrator at the email address: **Info@GatewayEnergySettlement.com**, the U.S. postal address (mailing): **Gateway Energy Settlement, Attn: Class Administrator, 1650 Arch Street, Suite 2210, Philadelphia, PA 19103**, or the toll-free telephone number: **1-833-780-5120**.

The description of the lawsuits is general and does not cover all of the issues and proceedings that have occurred. In order to see the complete file you should visit www.pacer.gov or the Clerk's office at 300 Quarropas St., White Plains, NY 10601-4150. The Clerk will tell you how to obtain the files for inspection and copying at your own expense.

21. What if my address or other information has changed or changes after I submit a Claim Form?

Contact the Settlement Administrator at:

Gateway Variable Rate Plan Settlement
c/o Claims Administrator
1650 Arch Street, Suite 2210
Philadelphia, PA 19103

DO NOT ADDRESS ANY QUESTIONS ABOUT THE SETTLEMENT OR THE LITIGATION TO THE CLERK OF THE COURT OR THE JUDGE.

Dated: May 3, 2019

By Order of the Court
CLERK OF THE COURT
United States District Court
Southern District of New York