

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON DIVISION

KENNETH WALTON GEORGE, <i>et al.</i> ,)	
)	
Plaintiffs,)	C/A No.: 8:06-CV-373-RBH
)	
vs.)	
)	
DUKE ENERGY RETIREMENT CASH)	
BALANCE PLAN, <i>et al.</i> ,)	
)	
Defendants.)	
_____)	

**ORDER APPROVING JOINT SUBMISSION
WITH REGARD TO CLASS NOTICE**

This action is before the Court on the Parties' Joint Submission With Regard To Class Notice ("Joint Submission"), filed September 24, 2009 (Docket Entry #252).

Upon consideration of the motion, statements made by counsel for the parties at the telephone status conference on September 30, 2009, and for good cause shown, the Joint Submission is approved, and it is hereby ordered as follows:

1. The form and content of the Class Notice attached to the Joint Submission as Exhibit A thereto ("Long-Form Notice") is approved.
2. The Parties are instructed to specify an opt-out deadline date in the Long-Form Notice which shall be 60 days after the date of mailing of the Class Notice. If the mailing is "staggered," i.e., if batches of notices are mailed over successive days or a series of days for logistical purposes, then the 60 day period shall be computed from the date of mailing of the last of any such "staggered" mailing.
3. Wallace and Graham, P.A. is hereby appointed Notice Administrator to supervise and administer, in conjunction with the parties, the notice process.
4. Within 10 days of the date of this Order, Defendants shall produce to

Plaintiffs of a list of class members ("Class List") falling within the class definition established by the Court's Orders dated September 4, 2009 (Docket Entry #251) and September 28, 2009 (Docket Entry #253). The Class List shall include name, last known mailing address, date of birth, social security number and employee identification number of class members, in an Excel spreadsheet format. The parties represent that they have agreed to split the cost of producing the Class List; as the cost stated by Duke's provider Hewitt is \$20,000, Plaintiffs shall pay \$10,000 and Defendants shall pay the remaining \$10,000.

5. Within 30 days of the production of the Class List in accordance with paragraph 4 above:

- a. the Notice Administrator shall cause a copy of the Long-Form Notice (in form substantially similar to that approved at paragraph 1 above), to be mailed by first class mail, postage prepaid, to the last known address of all Class members who can be identified by reasonable effort.
- b. The parties shall agree upon the form and content of, and the Notice Administrator shall publish, an internet website containing a copy of the Long-Form Notice and other relevant information. In addition, Class members may obtain the Long-Form Notice by contacting the Notice Administrator.
- c. The Notice Administrator shall cause to be published, a summary of basic case information ("Short-Form Notice"), including instructions for obtaining further information including a copy of the Long-Form Notice. The Short-Form Notice attached hereto as Exhibit 1 is approved as to form and content. The Notice Administrator shall cause the Short-Form Notice to be published (in form substantially similar to that approved herein) at least once in the following newspapers: Greenville News, The State, Charlotte Observer, Winston-Salem Journal, Greensboro News and Record, and Asheville Citizen-Times.

6. Within 90 days of the date of mailing of the Long-Form Notice in

accordance with paragraph 5 above, the Notice Administrator shall file with the Court (a) an affidavit summarizing compliance with this Order's provisions with regard to mailing of the Long-Form Notice, publication of the Long-Form Notice on the internet website, and publication of the Short-Form Notice in newspapers, (b) a print-out of the information available on the internet website, and (c) documents verifying publication of the Short-Form Notice. In addition, the Notice Administrator will itemize the costs incurred in printing, mailing, publishing and otherwise administering the class notice process, and provide other information as may be appropriate to document and summarize the class notice process.

7. Any person falling within the class definition who requests exclusion from the class shall do so within the time and in the manner prescribed in the Long-Form Notice and Short-Form Notice as approved herein. Unless the Court rules otherwise, no request for exclusion shall be valid unless it is made within the time set by and in the manner set forth in the Long-Form Notice and Short-Form Notice.

8. All reasonable costs incurred in identifying and notifying class members shall be paid by Class Counsel except as noted in Paragraph 4, above. In the event that the litigation results in a common fund created for the benefit of class members, Class Counsel may make application to the Court for the reimbursement of reasonable costs from the common fund.

9. The Court hereby finds the form and method of notice herein to be the best practicable under the circumstances, consistent with due process of law and Fed R. Civ. P. 23, and constituting due and sufficient notice of the pendency of this action.

So ordered, this the 13th day of November, 2009.

s/ R. Bryan Harwell
R. Bryan Harwell
United States District Judge