

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

KENNETH WALTON GEORGE,) 8:06-CV-373-RBH
et al., Plaintiffs, vs.) CLASS ACTION
DUKE ENERGY RETIREMENT) **SUMMARY NOTICE**
CASH BALANCE PLAN, et al.,) **OF CLASS ACTION**
Defendants.) Judge: R. Bryan Harwell

TO: (1) All present and/or former vested employees of Duke who were participants in Duke's Cash Balance Plan at any time between January 1, 1997 and December 31, 1998, excluding participants who had retired on or before December 31, 1996. ("Interest Rate Class")

(2) All former employees of Duke who were participants in Duke's Cash Balance Plan, between January 1, 1997 and December 31, 2002, who retired and took lump sum benefits on or before August 17, 2006, prior to age 65, and whose lump sum benefits were calculated during a calendar quarter when the Plaintiffs claim that the applicable interest crediting rate under the relevant Plan documents exceeded the applicable interest rate for discounting to present value under the Plan documents. ("Whipsaw Class")

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

1. DESCRIPTION OF THE LAWSUIT

This lawsuit is about Duke Energy Corporation's Retirement Cash Balance Plan and its administration and calculation of retirement benefits under that Plan. Plaintiffs claim that Duke acted in violation of the Employment Retirement Income Security Act of 1974 in how it has administered and calculated benefits under the Plan and that it violated fiduciary duties owed to the participants. Duke Energy denies that it did anything wrong.

2. CLASS CERTIFICATION

The Court has certified an "Interest Rate Class" and a "Whipsaw Class." The definition for each Class is above. The Court decided that this lawsuit could be a class action because it met the requirements of Federal Rule of Civil Procedure 23, which governs class actions in federal courts. The Court has not decided whether the Plaintiffs or the Defendants are correct. The Plaintiffs must prove their claims at trial.

3. RIGHT TO BE INCLUDED OR OPT OUT OF THE CLASS

To Remain a Class Member. If you are a member of the Interest Rate Class or the Whipsaw Class and do not request exclusion, you will remain a Class Member. Your interests in connection with those claims will be represented by the Class Representatives and Class Counsel. You do not need to take any action to remain a Class Member.

To Opt Out of the Class. You have the right to opt out of the Interest Rate Class, the Whipsaw Class, or both of them. If you opt out of one or both of those Classes, you will not be bound by or subject to any judgment or settlement of the litigation. If you opt out, however, you will also not be entitled to receive any money or other benefit that those Classes may receive in a settlement or in a judgment. If you wish to opt out, you must submit a written, signed request to opt out, stating (1) your name, address, and telephone number, (2) a reference to this lawsuit (i.e., George v. Duke Energy Retirement Cash Balance Plan, Case No. 8:06-CV-373-RBH), (3) the date of your first employment and, if applicable, the date you left your employment with Duke, and (4) your desire to opt out of the Classes. Requests to opt out must be sent by first class mail, postage pre-

paid, to Wallace and Graham, P.A., 525 North Main Street, Salisbury, NC 28144, ATTN: Duke Cash Balance Opt-Out, and post-marked no later than March 17, 2010. If you do not submit a timely opt-out request that complies with these requirements, your opt-out request will be deemed invalid and you will not be excluded from the Classes.

4. FOR ADDITIONAL INFORMATION

You can obtain more information including the Long-Form Class Notice by contacting Class Co-Counsel, Wallace and Graham, P.A., at 1-800-849-5291, emailing info@wallacegraham.com, or visiting www.wallacegraham.com.