

NORTH CAROLINA GENERAL COURT OF JUSTICE, SUPERIOR COURT DIVISION

If you paid Capacity Fees to Greenville Utilities Commission (“GUC”) on or between August 24, 2015 and June 30, 2018, then you may be eligible to receive benefits from a class action settlement

The Superior Court of Brunswick County, North Carolina authorized this notice.

This is not a solicitation from a lawyer.

- This notice informs you of a proposed settlement in a class action lawsuit, based on allegations that Greenville Utilities Commission unlawfully charged and collected “Capacity Fees” in violation of North Carolina law, as defined in section 2 below. The settlement resolves the lawsuit. The GUC denies that it did anything wrong or unlawful and denies any liability to Plaintiffs and to the members of the Settlement Class.
- You will need to file a Claim Form in order to qualify for benefits under the Settlement. You do not need to submit any supporting evidence of proof of payment with your Claim Form; however, all claims are subject to verification.
- Your legal rights are affected whether you act, or don’t act. Read this notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

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| SUBMIT A CLAIM FORM BY FEBRUARY 12, 2022 | This is the only way to receive benefits. You do not need to submit any supporting evidence of proof of payment with your claim form; however, all claims are subject to verification. |
| EXCLUDE YOURSELF BY OCTOBER 16, 2021 | Request to be excluded and get no benefits from the Settlement. This is the only option that allows you to start or continue your own lawsuit against GUC for any claims you might have that would otherwise be subject to the Release contained in the Settlement. GUC will not have waived any defense it may have to any such lawsuit. |
| DO NOTHING | Get no benefits from the Settlement. Give up any rights you might have to ever sue GUC about the legal claims in this case and resolved by the Settlement. |

- The Court in charge of this case still must decide whether to approve the Settlement. Benefits will be provided to eligible participants only if the Court approves the Settlement and after any appeals are resolved. Please be patient.
- Your rights and options—**and the deadlines to exercise them**—are explained in this Notice. The deadlines may be moved, canceled, or otherwise modified, so please check the settlement website at **www.GUCImpactFeeSettlement.com** regularly for updates and further details.

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BASIC INFORMATION

1. Why is there a notice?

If you received Notice of the Settlement by mail, then you have been identified as a Settlement Class Member. The Court authorized that you be sent notice because you have a right to know about a proposed Settlement of a class action lawsuit involving the payment of Impact Fees, and about your options under the Settlement. This Notice summarizes the lawsuit, the Settlement, your legal rights, what benefits are available, who is eligible for them, how those benefits will be provided, and other important information.

However, this Notice is only a summary of the Settlement Agreement, titled “Stipulation and Release,” (“Settlement” or “Settlement Agreement”) which is available for review at www.GUCImpactFeeSettlement.com. If there is any conflict between this Notice and the Settlement, the Settlement Agreement governs. You should review the full Settlement Agreement before deciding what to do.

2. What is this lawsuit about?

The case alleges that GUC unlawfully collected Capacity Fees between August 24, 2015 and June 30, 2018 as a mandatory condition to receiving water or sewer service in violation of applicable North Carolina law.

The Plaintiffs’ Complaint, the Settlement Agreement, and other case-related documents are posted on the website, www.GUCImpactFeeSettlement.com. The Settlement resolves the lawsuit.

3. Why is this a class action?

In a class action, one or more people, called “Class Representatives” (in this case Kidd Construction Group, LLC, Rocky Russell Builders, Inc., and Tommy Williams Builders, LLC) sue on behalf of people who have similar claims. Together, all these people with similar claims (except for those who exclude themselves) are members of the Settlement Class.

4. Why is there a settlement?

The Parties agreed to a settlement to avoid the costs and risks of further litigation and provide benefits to Settlement Class Members. The Class Representative and the lawyers representing him (called “Class Counsel”) believe that the Settlement is in the best interests of all Settlement Class Members.

WHO IS PART OF THE SETTLEMENT?

5. How do I know if I am in the settlement?

You are in the Settlement Class if you are a person or organization who paid Capacity Fees on or between August 24, 2015 and June 30, 2018 which are at issue in this action.¹

6. What if I am still not sure if I am included in the settlement?

If you are not sure whether you are a Settlement Class Member, or have any other questions about the Settlement Agreement, visit the settlement website at www.GUCImpactFeeSettlement.com, or contact the Settlement

Administrator. You can send questions by mail to: GUC Impact Fee Settlement Administrator, c/o CPT Group, Inc., 50 Corporate Park, Irvine, CA 92606; by emailing GUCImpactFeeSettlement@cptgroup.com or calling toll-free 1-888-525-1831.

SETTLEMENT BENEFITS

7. What does the settlement provide?

If the Settlement is approved, GUC will provide payments to Settlement Class Members who file a complete and timely claim form, for paid Capacity Fees. GUC will establish a Settlement Fund equal to one million five hundred and fifty seven thousand dollars (\$1,557,000.00).

What Settlement Class Members who paid Capacity Fees can get:

Payments to Settlement Class Members who file a timely and valid claim for Settlement Claims (Settlement Claimants), including attorneys' fees and fees for the Settlement Administrator, are subject to a maximum payout, or maximum settlement value of \$1,557,000 ("Fund"). The Final Settlement amount shall be determined after receipt of all claim forms within the prescribed claim form filing period. Payments for Settlement Claims will be disbursed as follows:

- At the conclusion of the claims period, GUC will pay from the Fund to all proper Claimants 100% of the Claimant's Impact Fee claimed and actually paid. In total, Settlement Class Members will be eligible to receive no more than 100% of the total Capacity Fees paid by the claimants to GUC on or between August 24, 2015 and June 30, 2018.
- In the event the Fund is oversubscribed at the conclusion of the claims period, attorneys' fees, service awards, and expenses will reduce the percentage of payouts to Claimants to an appreciable percentage lower than 100% on a pro rata basis.
- In no way shall any attorneys' fees, expenses, service awards, or any other cost reduce a Claimant's refund percentage from 100% as long as the Fund is undersubscribed. Attorneys' fees, expenses, and the service award shall not be individually deducted from each claimant's recovery as long as the fund is under subscribed at the conclusion of the claims period. Any unclaimed funds remaining in the Settlement Fund after all valid claims, attorney's fees, costs, expenses, and the class service awards have been paid shall be donated by GUC, *cy pres*.

8. What am I giving up to stay in the Class?

Unless you exclude yourself from the Settlement, you can't sue GUC, continue to sue, or be part of any other lawsuit against GUC about the legal issues in this case. It also means that all of the decisions by the Court will bind you. The claims you will release are referred to as the "Released Claims", which are fully described in the Settlement Agreement. The Settlement Agreement is available at www.GUCImpactFeeSettlement.com.

HOW TO GET BENEFITS

9. How can I receive benefits?

To receive benefits, each Settlement Class Member must timely complete and submit a valid Claim Form. A Claim Form should have been mailed to you. Your completed Claim Form must be mailed so that it is postmarked no later than **February 12, 2022**. Mail your Claim Form to:

GUC Impact Fee Settlement Administrator
c/o CPT Group, Inc.
50 Corporate Park
Irvine, CA 92606

You can also submit a claim online at www.GUCImpactFeeSettlement.com or submit it by email to GUCImpactFeeSettlement@cptgroup.com. Online and emailed claims must be **received** no later than **February 12, 2022**.

If you do not submit a timely and valid Claim Form by the deadline, you will not receive any settlement benefit.

10. When will I get my benefits?

Settlement Class Members who submit timely, complete, and valid claim forms will receive the benefits for which they qualify after the Court grants “final approval” to the Settlement and after any appeals are resolved. The Court granted final approval of the Settlement after a hearing on **November 15, 2021**.

EXCLUDING YOURSELF FROM THE SETTLEMENT

11. How do I get out of the settlement?

If you want to keep the right to sue GUC over the legal issues in this case, then you must take steps to get out of this Settlement and give up your right to benefits under this Settlement. This is called asking to be excluded from—or sometimes “opting out” of—the Settlement Class. To exclude yourself from the Settlement, you must complete and mail to the Settlement Administrator a letter that includes the following:

- A caption or title that identifies it as “Request for Exclusion in *Kidd Construction Group, LLC et. al v. Greenville Utilities Commission* (Pitt Co. No. 18-CVS-2376).”
- Your name, business address, and address of the property where the alleged Capacity Fees were paid and date of payment;
- A statement that you wish to be excluded from the Settlement.

You must mail your exclusion request, postmarked no later than **October 16, 2021** to the following address, and mail copies to Class Counsel and GUC’s Counsel:

| <u>Administrator</u> | <u>Class Counsel</u> | <u>The GUC's Counsel</u> |
|--|--|--|
| GUC Impact Fee Settlement Administrator c/o CPT Group, Inc. Attn: Exclusions 50 Corporate Park Irvine, CA 92606 Settlement Administrator | Daniel K. Bryson Scott C. Harris J. Hunter Bryson Martha Geer Milberg Coleman Bryson Phillips Grossman, PLLC 900 W. Morgan Street Raleigh, North Carolina 27603 | Dan Hartzog Jr. Hartzog Law Group 2626 Glenwood Ave. Suite 305 Raleigh, NC 27608 |

If you don't submit your request for exclusion on time or if it is incomplete, you will remain a Settlement Class Member and will not be able to sue GUC about the claims in this lawsuit. You may opt out of the Settlement Class only for yourself. So-called "mass" or "class" opt outs, whether filed by third parties on behalf of a "mass" or "class" of Settlement Class Members or multiple Settlement Class members where no personal statement has been signed by each and every individual Settlement Class Member, are not allowed.

12. If I don't exclude myself, can I sue GUC for the same thing later?

No. Unless you exclude yourself, you give up any right to sue GUC for the claims that this Settlement resolves. The claims that this Settlement resolves are fully described in the Settlement Agreement. The Settlement Agreement is available at www.GUCImpactFeeSettlement.com. If you have a pending lawsuit, speak to your lawyer in that lawsuit immediately. You must exclude yourself from this Class to continue your own lawsuit.

13. If I exclude myself, can I still get benefits?

No. You will not receive any benefits from the Settlement if you exclude yourself. If you exclude yourself from the Settlement, do not send in a Claim Form asking for benefits.

If you have a pending lawsuit, speak to your lawyer in that lawsuit immediately. You must exclude yourself from this Class to continue your own lawsuit.

14. How do I object to the settlement?

An objection means you would like to object to the terms of the Settlement because you believe the benefits secured are inadequate.

A written statement of objection must: (a) contain a caption or title that identifies it as "Objection to Class Settlement in of *Kidd Construction Group, LLC et. al v. Greenville Utilities Commission* (Pitt Co. No. 18-CVS-2376);" (b) identify whether the objection is to the Settlement Class; (c) set forth the specific reason(s) for each objection, including all legal support the Settlement Class Member wishes to bring to the Court's attention and all factual evidence the Settlement Class Member wishes to introduce in support of the objection; (d) include the name and address of the Settlement Class Member; (e) be personally signed by the Settlement Class Member; (f) include an identification, by case style and number, of any other class settlements the objector or the objector's attorney(s) have asserted an objection; (g) include an identification of all attorneys having a financial interest or stake in the objection; and (h) include three different dates within the next two weeks from the date in which the objection is submitted in which a representative for the entity that made the objection, or if an individual, the individual itself, will be available for a deposition.

Copies of the written statement must be mailed by postmarked no later than **October 16, 2021** to all of the above recipients in addition to the Pitt County Clerk of Superior Court to be valid.

THE LAWYERS REPRESENTING YOU

15. Do I have a lawyer in this case?

Yes. The Court has appointed the following lawyers, called “Class Counsel,” to represent all Class Members: Daniel Bryson, Scott Harris Martha Geer, and J. Hunter Bryson of Milberg Coleman Bryson Phillips Grossman, PLLC. You will not be personally charged for these lawyers. They will be paid under the terms of the Settlement. If you want to be represented by your own lawyer, you may hire one at your own expense.

16. How will the lawyers be paid?

Class Counsel will ask the Court to approve attorneys’ fees not to exceed one-third the value of the Settlement fund and reimbursement of advanced expenses. The Court will determine the amount of fees and expenses to award. Class Counsel will also request that \$5,000 be paid to each of the Class Representatives who helped the lawyers on behalf of the whole Class.

IF YOU DO NOTHING

17. What happens if I do nothing at all?

If you do nothing, you will not get any benefits from the settlement. Unless you exclude yourself, you won’t be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against GUC about the legal issues in this case, ever again.

GETTING MORE INFORMATION

18. How do I get more information?

This notice summarizes the proposed Settlement. More details are in the Settlement Agreement. You can get a complete copy of the Settlement Agreement and other information at **www.GUCImpactFeeSettlement.com**. If you have additional questions or want to request a Claim Form, you can visit the settlement website at **www.GUCImpactFeeSettlement.com**; by emailing **GUCImpactFeeSettlement@cptgroup.com** or by calling toll-free 1-888-525-1831, or writing to the Settlement Administrator at:

GUC Impact Fee Settlement Administrator
c/o CPT Group, Inc.
50 Corporate Park
Irvine, CA 92606

PLEASE DO NOT CONTACT THE COURT OR THE CLERK’S OFFICE CONCERNING THIS CASE.

QUESTIONS? VISIT WWW.GUCIMPACTFEESETTLEMENT.COM

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