

MONROE COUNTY CLERK'S OFFICE

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No. Pages: 7

Instrument: ORDER

Control #: 202503190599

Index #: E2022010511

Date: 03/19/2025

Time: 9:58:13 AM

Return To:  
Sue Lerkins  
99 Exchange Blvd.  
Rochester, NY 14614

TOWN OF BRIGHTON  
JOULE ASSETS

ICON ENERGY LLC

Total Fees Paid: \$0.00

Employee: CW

State of New York

MONROE COUNTY CLERK'S OFFICE  
WARNING – THIS SHEET CONSTITUTES THE CLERKS  
ENDORSEMENT, REQUIRED BY SECTION 317-a(5) &  
SECTION 319 OF THE REAL PROPERTY LAW OF THE  
STATE OF NEW YORK. DO NOT DETACH OR REMOVE.

JAMIE ROMEO

MONROE COUNTY CLERK



At a Special Term of the Supreme Court, held  
in and for the County of Monroe, at 99  
Exchange Boulevard, Rochester, New York  
14614 on March \_\_, 2025.

PRESENT: **HON. DANIEL J. DOYLE**  
Justice Presiding

SUPREME COURT  
STATE OF NEW YORK COUNTY OF MONROE

TOWN OF BRIGHTON, on its own behalf and on behalf of  
eligible and participating customers, JOULE ASSETS INC.,  
and WILLIAM W. MOEHLE, RAYMOND J. TIERNEY, III,  
GEORGE L. SMITH, and GAIL M. SEIGEL, Ph.D., on  
behalf of themselves and all other residents of the Town of  
Brighton, New York, similarly situated,

Index No. E2022010511

Plaintiffs,

-vs-

ICON ENERGY LLC d/b/a SOURCE POWER  
COMPANY,

Defendant.

**ORDER GRANTING PRELIMINARY APPROVAL  
OF A CLASS ACTION SETTLEMENT**

**WHEREAS**, Plaintiffs Town of Brighton (the “Town”), Joule Assets Inc. (“Joule”),  
William W. Moehle, Raymond J. Tierney III, George L. Smith, and Gail M. Seigel, Ph.D.  
(collectively, “Plaintiffs”) and Defendant Icon Energy LLC d/b/a Source Power (“Defendant”)  
have entered into a settlement agreement proposing a class-wide resolution of this action; and

**WHEREAS**, the Court has reviewed the Settlement Agreement; and

**WHEREAS**, the Settlement Agreement, in sum, has four key conditions to effectiveness:

(i) preliminary approval of the Settlement Agreement by this Court, (ii) conditional certification of a settlement class by this Court, (iii) the opportunity for members of the class to opt-out or object to the Settlement Agreement, and (iv) final approval by this Court of the Settlement Agreement, following review of any objections by members of the class.

**NOW, THEREFORE**, upon review of the Settlement Agreement and the procedural and substantive proceedings in this action to date, the Court hereby orders as follows:

**PRELIMINARY APPROVAL OF THIS SETTLEMENT**

1. The terms of the Settlement Agreement are hereby preliminarily approved. The Settlement Agreement is reasonable and is the result of extensive, arm's length negotiations, the Settlement Agreement has no obvious deficiencies, and notice to the class is appropriate.

**CONDITIONAL CERTIFICATION OF THE PROPOSED SETTLEMENT CLASS**

2. The Court provisionally certifies the following class under Article 9 of the CPLR for settlement purposes only (defined terms that are not defined in this Order are used as defined in the Settlement Agreement): All consumers who, by virtue of not opting out, were enrolled in the Town's New York's Community Choice Aggregation Program ("CCA Program") between January 1, 2021 and December 31, 2022, and who were allegedly injured as a result of Defendant's alleged failure to comply with obligations to provide renewable energy and/or fixed-rate prices to CCA Program participants, including, without limitation, those obligations imposed by the October 7, 2020 Electricity Supply Agreement (the "Settlement Class"; and each of the members of the Settlement Class, the "Class Members").

3. The object of the settlement is to avoid a determination of contested issues. The parties dispute the merits of the case and whether this case could proceed as a class action. The

Court determines for the purposes of settlement only that the Plaintiffs meet all of the requirements for class certification under CPLR 901 and 902. This determination is without prejudice to the right of the Defendants to oppose any motion for class certification, and to contest the Plaintiffs' claims, should the terms of the Settlement Agreement not be finally approved in an order of this Court that is final, binding, and non-appealable, regardless of the reason.

**APPOINTMENT OF PLAINTIFFS' COUNSEL AS CLASS COUNSEL**

4. The Court appoints Mancuso Brightman PLLC ("Class Counsel") as counsel for the Settlement Class. Class Counsel has performed substantial work to date in litigating this action on behalf of the Plaintiffs and the putative class and are well-versed in the legal and factual matters at issue in this action.

**CLASS NOTICE**

5. The Court approves the proposed Notice to Settlement Class Members attached as an exhibit to the Settlement Agreement (the "Notice to Class Members"), and directs distribution thereof.

6. CPLR 908 requires that "[n]otice of the proposed... compromise [of a class action] shall be given to all members of the class in such manner as the court directs."

7. The content of the Notice to Class Members fully complies with due process and CPLR 908. The Notice to Class Members adequately puts the class members on notice of the proposed settlement, describes the terms of the Settlement Agreement, and explains the rights and obligations of the members of the class under those terms. The Court directs the Notice to Class Members be distributed to the members of the class in accordance with this Order and the terms of the Settlement Agreement.

**CLASS ACTION SETTLEMENT PROCEDURE**

8. The Court hereby adopts the following settlement procedures:

a. Within 10 business days of entry of this Order, Class Counsel shall provide the Settlement Administrator with the Notice to Class Members as approved by this Court. In the same period, Joule shall provide the Class Counsel and the Settlement Administrator with the name and last known address and last known telephone number for each Class Member.

b. The Settlement Administrator shall, within 15 calendar days of receiving the Notice to Class Members, (i) verify the accuracy of the addresses of each Class Member and (ii) mail the Notice to Class Members to each Class Member by First Class United States Mail. For any Notice that is returned with forwarding address information, the Settlement Administrator shall re-mail the Notice to the forwarding address. For any Notice to Class Members that is returned as undeliverable within thirty calendar days of mailing, the Settlement Administrator shall, within ten calendar days of receipt of the returned envelope, attempt to obtain an updated address, including through skip tracing and re-mail the Notice to Class Members accordingly. For any Notice to Class Members that is returned as undeliverable within thirty calendar days of mailing and for which an alternate address cannot be located through reasonable skip-tracing measures, the Settlement Administrator shall note the same in the database maintained as required under the Settlement Agreement.

c. In addition, within 10 business days of entry of this Order, the Notice to Class Members shall also be posted on the Town's website, containing a link to the Settlement website maintained by the Settlement Administrator.

d. Class Members shall have 45 calendar days from the date of the mailing of the Notice to Class Members to submit an Exclusion Letter by mail to the Settlement Administrator

opting out of the terms of the Settlement Agreement. Class Members who were re-mailed a Notice to Class Members after their initial mailing was returned to the Settlement Administrator as undeliverable will have 45 calendar days from the date of re-mailing to submit an Exclusion Letter by mail to the Settlement Administrator to opt out of the terms of the Settlement Agreement. The date of submission of an opt-out notice shall be determined by the postmark on the envelope or, if there is no legible postmark, by the date of receipt by the Settlement Administrator.

e. Class Members shall have 30 calendar days from the date of the mailing of the Notice to Class Members to object in writing to the terms of the Settlement Agreement. Class Members who were re-mailed a Notice to Class Members after their initial mailing was returned to the Settlement Administrator as undeliverable will have 30 calendar days from the date of re-mailing to object in writing to the terms of the Settlement Agreement. The objection must be in writing and must include the following information: (i) the objector's name, address, telephone number, and the contact information for any attorney retained by the objector in connection with the objection or otherwise in connection with this case; (ii) a statement of the factual and legal basis for each objection and any exhibits the objector wishes the Court to consider in connection with the objection; and (iii) a statement as to whether the objector intends to appear at the hearing on the Final Approval Order, either personally or through counsel, and, if through counsel, identifying the counsel by name, address, and telephone number. The date of submission of an objection shall be determined by the postmark on the envelope or, if there is no legible postmark, by the date of receipt by the Settlement Administrator.

f. via teams The Final Approval Hearing shall be held on 9/8, 2025, at 11 DD  
9 a.m./p.m. Plaintiffs shall file a motion or letter request for a Final Approval Order no later than 15 business days before the date of the Final Approval Hearing.

g. Except as otherwise provided in this Order, the Parties shall abide by the terms of the Settlement Agreement.

**SO ORDERED**

Dated: 3/17, 2025



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HON. DANIEL J. DOYLE, J.S.C.

ENTERED: