

DOCKET NO. X03-HHD-CV17-6075408-S

LYDIA GRUBER, on behalf of herself	:	SUPERIOR COURT OF CONNECTICUT
and all others similarly situated,	:	
<i>Plaintiff,</i>	:	COMPLEX LITIGATION DOCKET
	:	
v.	:	JUDICIAL DISTRICT OF HARTFORD
	:	
STARION ENERGY, INC.	:	
<i>Defendant.</i>	:	May 24, 2017

**ORDER OF PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT,
CONDITIONAL CERTIFICATION OF SETTLEMENT CLASS, APPROVAL OF
NOTICE PLAN, AND SCHEDULING OF FAIRNESS HEARING**

This matter comes to be heard on the Unopposed Motion for, and Memorandum in Support of Unopposed Motion for, Preliminary Approval of Class Action Settlement, Conditional Certification of Settlement Class, Approval of Notice Plan, and Scheduling of Fairness Hearing filed by Lydia Gruber, individually and on behalf of the Settlement Class (as defined below), requesting that the Court enter an Order: (1) preliminarily approving the Settlement Agreement, which was filed with the Court on May 10, 2017; (2) preliminarily certifying, pursuant to Connecticut Practice Book §§ 9-7, 9-8, and 9-9, the Settlement Class for settlement purposes only; (3) preliminarily appointing Lydia Gruber as Lead Plaintiff and Lydia Gruber, Louise Ferdinand, Melissa Pennellatore, Diana Windley, Case Martin, and Douglas Siedenburg as Class Representatives; (4) preliminarily appointing Seth Klein, Esq., and Robert Izard, Esq., of Izard Kindall & Raabe LLP and Jeremy Heisler, Esq., Michael Palmer, Esq., Andrew Melzer, Esq., and David Tracey, Esq., of Sanford Heisler Sharp LLP as Settlement Class Counsel; (5) preliminarily approving the proposed Plan of Allocation; (6) approving the Notice Plan; (7) appointing Kurtzman Carson Consultants LLC (“KCC”) as the Notice and Claims

Administrator; and (8) scheduling a Final Fairness Hearing to consider final approval of the settlement.

Having reviewed and considered the Settlement Agreement and the motion and memorandum in support for preliminary approval of the settlement, the Court makes the findings and grants the relief set forth below, preliminarily approving the settlement contained in the Settlement Agreement upon the terms and conditions set forth in this Order. Terms and phrases in this Order shall have the same meaning as defined in the Settlement Agreement.

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. Having made the findings set forth below, the Court hereby preliminarily certifies a plaintiff class for settlement purposes only in accordance with the terms of the Settlement Agreement (the "Settlement Class"). The Settlement Class is defined as:

All persons who were or are customers of Starion Energy, Inc.; Starion Energy PA, Inc.; or Starion Energy NY, Inc. in Connecticut, the District of Columbia, Delaware, Illinois, Maryland, Massachusetts, New Jersey, New York, Ohio, or Pennsylvania, and were enrolled in a Starion variable rate electric plan at any time from January 1, 2010, through and including the date upon which the Court issues the Preliminary Approval Order (the "Class").

Excluded from the Settlement Class are: Starion Energy, Inc.; Starion Energy PA, Inc.; or Starion Energy NY, Inc.; any of their respective parents, subsidiaries, or affiliates; any entity controlled by any of them; any officer, director, employee, legal representative, predecessor, successor, or assignee of Starion Energy, Inc.; Starion Energy PA, Inc.; or Starion Energy NY, Inc.; and any current or former customer who previously received from Starion Energy, Inc.; Starion Energy PA, Inc.; or Starion Energy NY, Inc. any payment resolving a claim similar to those asserted in the Class Actions; any current or former customer who is party to a Starion variable rate electric plan contract that contains an arbitration clause (unless the customer expressly waives any and all arbitration rights that may exist under that arbitration clause); and the judicial officers assigned to this litigation; and members of their staffs and immediate families.

As provided in the Settlement Agreement, Starion agrees to waive any arbitration clause that may exist in any Claimant's contract only with regard to Claimants who submit valid Claim

Forms that waive the Claimant's own arbitration rights and only for the period of time covered by the Class Period, and for no other persons or time periods whatsoever. As also provided in the Settlement Agreement, if the Court does not grant final approval of the settlement set forth in the Settlement Agreement, or if the settlement set forth in the Settlement Agreement is terminated in accordance with its terms, then the Settlement Agreement, and the certification of the Settlement Class provided for herein, will be vacated and the Actions shall proceed as though the Settlement Class had never been certified, without prejudice to any party's position on the issue of class certification or any other issue.

2. The Settlement Class is so numerous that joinder of all members is impracticable.

3. The Court finds, based on the terms of the settlement described in the Settlement

Agreement, that:

- a. There are questions of law and fact common to the Settlement Class;
- b. The claims of the Lead Plaintiff and Class Representatives are typical of the claims of members of the Settlement Class;
- c. Lead Plaintiff, the Class Representatives, and Settlement Class Counsel will fairly and adequately represent the interests of the Settlement Class. There are no conflicts of interest between Lead Plaintiff or the Class Representatives and members of the Settlement Class;
- d. Questions of law and fact common to Settlement Class Members predominate over any questions affecting only individual members of the Settlement Class; and
- e. Certification of the Settlement Class is superior to other methods for the fair and efficient adjudication of this controversy.

4. Accordingly, the Court hereby preliminarily certifies the Settlement Class, for settlement purposes only, pursuant to Connecticut Practice Book § 9-9.

5. The Court preliminarily approves the settlement set forth in the Settlement Agreement as being within the range of fair, reasonable, and adequate, within the meaning of Connecticut Practice Book § 9-9, subject to final consideration at the Final Fairness Hearing provided for below.

6. The Court preliminarily approves the Plan of Allocation described in the Motion for Preliminary Approval as being fair and reasonable, subject to final consideration at the Final Fairness Hearing provided for below.

7. The Court appoints Robert A. Izard, Esq., and Seth R. Klein, Esq., of Izard Kindall & Raabe LLP and Jeremy Heisler, Esq., Michael Palmer, Esq., Andrew Melzer, Esq., and David Tracey, Esq., of Sanford Heisler Sharp LLP, as counsel for the Settlement Class (“Settlement Class Counsel”).

8. Lydia Gruber is appointed as Lead Plaintiff and Lydia Gruber, Louise Ferdinand, Melissa Pennellatore, Diana Windley, Case Martin, and Douglas Siedenbug are appointed as Class Representatives.

9. A hearing (the “Final Fairness Hearing”) shall be held before this Court on November 13, 2017, at 2:00 p.m. at the Connecticut Superior Court, Judicial District of Hartford, Courtroom No. 400, 95 Washington Street, Hartford, Connecticut 06106 to determine: (a) whether the settlement set forth in the Settlement Agreement is fair, reasonable, adequate, and in the best interests of the Settlement Class; (b) whether a Judgment, as provided for in the Settlement Agreement, should be entered granting final approval of the settlement; and (c) whether, and in what amount, attorneys’ fees, costs and expenses, and Representative

Plaintiffs incentive awards should be paid to Settlement Class Counsel for distribution. The Court may adjourn and/or continue the Final Fairness Hearing without further notice to Settlement Class Members.

10. The Court approves and appoints KCC as Notice and Claims Administrator and payment of Notice Costs out of the Settlement Fund.

11. The Court approves as to form and content the Notice Plan. The Court finds that compliance with the Notice Plan is the best notice practicable under the circumstances and constitutes due and sufficient notice of this Order to all persons entitled thereto and is in full compliance with the requirements of Connecticut Practice Book § 9-9, applicable law, and due process.

12. Prior to the Final Fairness Hearing, the Settling Parties shall cause to be filed with the Court an appropriate affidavit or declaration with respect to complying with the Notice Plan.

13. No later than July 24, 2017, or on such other specific date as the Court set in a subsequent order, Plaintiff shall file any motion for attorneys' fees, costs and expenses, as well as any motion for an award of an incentive payment.

14. To be excluded from the Settlement, a Settlement Class Member must individually sign and timely submit written notice clearly manifesting his or her intent to a designated Post Office Box established for said purpose. The written notice must refer to *Gruber v. Starion Energy* and must list the electric utility account number for the account sought to be excluded. In addition, the exclusion request must include, for each account listed:

- (1) the full names and current addresses of each person whose name is on the account;
- (2) a statement of intention to exclude each person whose name is on the account from the Settlement Class; and
- (3) the signature of each person whose name is on the account.

15. All requests for exclusion must be postmarked by no later than October 23, 2017, or by such other specific date as the Court set may set in a subsequent order.

16. All persons falling within the definition of the Settlement Class who do not request to be excluded from the Settlement Class shall be bound by the terms of the Settlement Agreement, the Judgment Order entered thereon, and all Orders entered by the Court in connection with the settlement set forth in the Settlement Agreement. All persons who submit valid and timely notice of their intent to be excluded from the Settlement Class shall neither receive any benefits nor be bound by the terms of the Settlement Agreement.

17. Settlement Class Members who qualify for and wish to submit a claim for any benefit under the settlement as to which a claim is required shall do so in accordance with the requirements and procedures of the Settlement Agreement and Notice. All Settlement Class Members who qualify for any benefit under the settlement as to which a claim is required but fail to submit a claim therefor in accordance with the requirements and procedures of the Settlement Agreement shall be forever barred from receiving any such benefit, but will in all other respects be subject to and bound by the provisions of the Settlement Agreement, and the releases contained therein.

18. To object to the settlement, the Plan of Allocation, or to the motions for attorneys' fees, costs and expenses, or for an incentive award, a Settlement Class Member must timely file a written statement of objection with the Court. The written statement of objection must set forth:

- (1) the full name, address, and telephone number of the objector;
- (2) all reasons for the objection;
- (3) the names of all attorneys representing the objector, if any;

- (4) the names of all attorneys representing the objector who will appear at the Final Fairness Hearing;
- (5) a list of all people the objector will call to testify at the Final Fairness Hearing, if any;
- (6) a statement stating whether the objector will appear and/or testify at the Final Fairness Hearing; and
- (7) the signature of the objector or the signature of a duly authorized attorney or other duly authorized representative for the objector (along with documentation of such representation).

19. To be timely, a written statement of an objection in appropriate form must be filed with the Clerk of the Superior Court of the Hartford Judicial District no later than October 23, 2017, or by such other specific date as the Court may set in a subsequent order, and also served on Settlement Class Counsel, Seth Klein, Esq., Izard Kindall & Raabe LLP, 29 South Main St., Ste. 305, West Hartford, CT 06107, and Defendant's counsel, Keith E. Smith, Esq., Eckert Seamans Cherin & Mellott LLC, Two Liberty Place, 50 South 16th St., 22nd Floor, Philadelphia, PA 19102.

20. All discovery and pretrial proceedings in this litigation are stayed and suspended until further order of the Court.

21. Pending the final determination of the fairness, reasonableness, and adequacy of the settlement set forth in the Settlement Agreement, no Settlement Class Member, either directly, representatively, or in any other capacity, shall institute, commence, or prosecute any of the Released Claims in any action or proceeding in any court or tribunal.

22. Neither the Settlement Agreement nor the settlement contained therein, nor any act performed or document executed pursuant to or in furtherance of the Settlement Agreement or the settlement: (a) is or may be deemed to be, or may be used as an admission of, or evidence of, the validity or lack thereof of any Released Claim, or of any wrongdoing or liability of

Defendant; or (b) is or may be deemed to be, or may be used as an admission of, or evidence of, any fault or omission of Defendant, in any civil, criminal, or administrative proceeding in any court, administrative agency, or other tribunal.

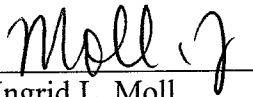
23. In the event the Court does not grant final approval of the Settlement Agreement or the settlement set forth in the Settlement Agreement is terminated in accordance with its terms, the Settling Parties shall be restored to their respective positions in the litigation, except that all scheduled litigation deadlines shall be reasonably extended so as to avoid prejudice to any Settling Party or litigant. In such event, the terms and provisions of the Settlement Agreement shall have no further force and effect with respect to the Settling Parties and shall not be used in the litigation or in any other proceeding for any purpose, and any judgment or order entered by the Court in accordance with the terms of the Settlement Agreement shall be treated as vacated, *nunc pro tunc*.

24. As previously set by the Court in Docket Entry No. 107.00, the Court restates the following schedule for the final approval hearing and the actions that must precede it:

- a. Initial notice shall be mailed to the Settlement Class by no later than July 7, 2017.
- b. Plaintiff and Class Representatives shall file their Motion for Final Approval, Motion for Attorneys' Fees, Costs and Expenses, and Motion for Incentive Award by no later than July 24, 2017.
- c. Settlement Class members must file any objections to the Motion for Final Approval, the Motion for Attorneys' Fees, Costs and Expenses, and/or the Motion for Incentive Award by no later than October 23, 2017.

- d. Settlement Class members must file requests for exclusion from the Settlement by no later than October 23, 2017.
- e. The deadline to file claims is October 30, 2017.
- f. Reply briefs may be filed in response to any objections by no later than November 6, 2017.
- g. The fairness hearing will take place on November 13, 2017, at 2:00 p.m., at the Connecticut Superior Court, Judicial District of Hartford, Courtroom No. 400, 95 Washington Street, Hartford, Connecticut 06106.

SO ORDERED.



Ingrid L. Moll
Superior Court Judge

Dated: May 24, 2017