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CLERK OF THE SEDGWICK COUNTY DISTRICT COURT
CASE NUMBER: 2022-CV-001347-OT



Court: Sedgwick County District Court
Case Number: 2022-CV-001347-OT
Case Title: State of Kansas ex rel Derek Schmidt, Attorney
Gen, et al. vs. Evergy Kansas Central, Inc
Type: Journal Entry of Consent Judgment

SO ORDERED.

A handwritten signature in blue ink, appearing to read "Eric Commer", is written over a light blue circular stamp.

/s/ Honorable Judge Eric Commer

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IN THE DISTRICT COURT OF SEDGWICK COUNTY, KANSAS

STATE OF KANSAS, *ex rel.*)
DEREK SCHMIDT, Attorney General,)
&)
MARC A. BENNETT, District Attorney)
Eighteenth Judicial District of Kansas)
Plaintiffs,)
vs.)
EVERGY KANSAS CENTRAL, INC.)
f/k/a WESTAR ENERGY, INC.,)
a wholly owned subsidiary of)
EVERGY, INC., a foreign corporation,)
Defendant.)

(Pursuant to K.S.A. Chapters 60)

JOURNAL ENTRY OF CONSENT JUDGMENT

NOW on this date, the Parties' Journal Entry of Consent Judgment comes before the Court pursuant to K.S.A. 50-632(b) of the Kansas Consumer Protection Act (KCPA). Plaintiffs

appear by and through Derek Schmidt, Attorney General for the State of Kansas, and Marc Bennett, District Attorney for the Eighteenth Judicial District, with counsel Deputy Attorney General Frances R. Oleen, Assistant Attorney General Melanie S. Jack and Chief District Attorney Jason Roach. Defendant appear by Lucinda Luetkemeyer, Todd Graves, and Paul Brothers, Graves Garrett LLC, (collectively the “Parties”).

WHEREUPON, the Parties advise the Court that they have stipulated and agreed to the following:

PARTIES

1. Derek Schmidt is the duly elected, qualified and acting Attorney General for the State of Kansas.
2. Marc A. Bennett is the duly elected and acting District Attorney for the Eighteenth Judicial District (Sedgwick County) in the State of Kansas.
3. The Attorney General’s and District Attorney's authority to bring this action is derived from the statutory and common law of the State of Kansas, specifically the Kansas Consumer Protection Act, (hereinafter the KCPA), K.S.A. 50-623 *et seq.*, K.S.A. 50-632 and K.S.A 50-633(c), to protect consumers from suppliers who commit deceptive and unconscionable practices.
4. Westar Energy Inc., (hereinafter “Westar”) merged with Great Plains Energy, Inc. to form Evergy in July, 2018, a Missouri corporation with a principal office at 1200 Main Street, Kansas City, MO.
5. On August 30, 2019, Westar, changed its name to Evergy Kansas Central, Inc.
6. All references to Defendant herein include acts deemed to mean those of the principals, officers, directors, managers, employees, agents, representatives, affiliates, assignees and/or successors of said corporate Defendant.

JURISDICTION AND VENUE

7. This Court has personal and subject matter jurisdiction over this controversy by the Kansas Consumer Protection Act as provided by K.S.A. 50-638(a).
8. Venue is proper in the Eighteenth Judicial District of Kansas (Sedgwick County) under K.S.A. 50-638(b).

ALLEGATIONS

9. Defendant acted as “suppliers” in Kansas, as that term is defined by K.S.A. 50-624(l).
10. Defendant engaged in “consumer transactions” in Kansas, as that term is defined by K.S.A. 50-624(c).
11. Defendant engaged in consumer transactions with “consumers,” as that term is defined in K.S.A. 50-624(b).
12. On or about September 16, 2014, through December 2019 Westar entered into an agreement (“the agreement”) with HomeServe USA (“HomeServe”) related to home warranties offered by HomeServe.
13. Plaintiff alleges that:
 - a. Defendant made representations made knowingly or with reason to know that property or services have sponsorship, approval, accessories, characteristics, ingredients, uses, benefits or quantities that they do not have, in violation of K.S.A. 50-626(b)(1)(A).
 - b. Defendant willfully used, in an oral or written representation, of ambiguity as to a material fact, in violation of pursuant to K.S.A. 50-626(b)(2).
 - c. Defendant entered into consumer transactions in which the consumer was unable to receive a material benefit from the subject of the transaction, in violation of K.S.A. 50-627(b)(3).
 - d. Defendant entered into consumer transactions in which Defendant took advantage of the inability of the consumer reasonably to protect the consumer's interests because of the consumer's physical infirmity, ignorance, illiteracy, inability to understand the language of an agreement or similar factor, in violation of K.S.A. 50-627(b)(1).

14. Defendant is entering into this Consent Judgment solely for the purpose of settlement, and nothing contained herein may be taken as or construed to be an admission or concession of any violation of law, rule, or regulation, or of any other matter of fact or law, or of any liability or wrongdoing, all of which Defendant expressly denies. Defendant does not admit any violation of the KCPA and does not admit any wrongdoing that was or could have been alleged. No part of this Consent Judgment shall constitute evidence of any liability, fault, or wrongdoing by Defendant. This document and its contents are not intended for use by any third party for any purpose.

15. This Consent Judgment shall not be construed or used as a waiver or limitation of any defense otherwise available to Defendant in any other action, or of Defendant's right to defend itself from, or make any arguments in, any other private individual, regulatory, governmental, or class claims or suits relating to the subject matter or terms of this Consent Judgment. This Consent Judgment is made without trial or adjudication of any issue of fact or law or finding of liability of any kind. Notwithstanding the foregoing, Plaintiffs may file an action to enforce the terms of this Consent Judgment.

16. No part of this Consent Judgment shall create a private cause of action or confer any right to any third party for violation of any federal or state statute except that the Plaintiffs may file an action to enforce the terms of this Judgment. It is the intent of the Parties that this Consent Judgment shall not be binding or admissible in any other matter, including, but not limited to, any investigation or litigation, other than in connection with the enforcement of this Consent Judgment.

INJUNCTIVE RELIEF

17. Defendant agrees to comply with all Kansas laws, statutes, rules, regulations and tariffs relating to consumer transactions in Kansas, specifically, but not limited to, the Kansas Consumer Protection Act, K.S.A. §50-623 *et seq.*
18. Defendant shall not cause or encourage third parties, nor knowingly permit third parties acting on their behalf, to engage in practices prohibited by this Consent Judgment.
19. Defendant voluntarily agrees to this Consent Judgment without trial or adjudication of any issue of fact or law for the purpose of settlement and without admitting any allegations contained herein.
20. Defendant agrees that the following paragraphs apply to the corporate Defendant, their principals, officers, directors, managers, employees, agents, representatives, affiliates, assignees and/or successors of said corporate Defendant, or any subsequent entity in which corporate Defendant independently or collectively has an active role (e.g. incorporator, owner, operator, president) or 5% or greater financial interest.
21. Defendant agrees from the time of the execution of this Consent Judgment, to be permanently enjoined from engaging in deceptive and unconscionable acts or practices in connection with a consumer transaction, specifically but not limited to the violations addressed herein.
22. Westar agrees from the time of the execution of this Consent Judgment, to be permanently enjoined from engaging in deceptive and unconscionable acts or practices in connection with a consumer transaction, specifically but not limited to:
 - a. Refraining from sharing customer information with a third party other than as allowed by law;

- b. In the event Defendant is compensated for use of their logo, then Defendant will place a statement in immediate proximity to the logo indicating Defendant has been compensated for use of its logo. Such statement shall not be in less than 10-point boldface font;
- c. Refraining from allowing any third party to use its logo for any solicitation that contains language, or is designed in a manner that would lead a reasonable person to believe, that it originates from Defendant, unless it is a solicitation on behalf of Defendant;
- d. Refraining from sending or delivering a solicitation for goods or services which could reasonably be interpreted or construed as a bill, invoice, or statement of account due; and
- e. Refraining from soliciting goods or services when it is impossible for the consumer to receive any benefit.

MONETARY RELIEF

23. Defendant agrees to pay to the Kansas Attorney General \$480,000.00. The Kansas Attorney General and the Sedgwick County District Attorney shall use these funds solely for enforcing the consumer protection laws of the State of Kansas.

24. Defendant agrees to pay \$20,000.00 in investigative fees and expenses as provided by K.S.A. 50-636(c).

25. Payment will be in the form of a cashier's check, money order or other certified funds payable to the Office of the Kansas Attorney General, marked **CP-11-002246** and mailed to:

Melanie Jack, Assistant Attorney General
Office of the Kansas Attorney General
120 SW 10th Ave., 2nd Floor
Topeka, Kansas 66612

OTHER PROVISIONS

26. Compliance with this Consent Judgment does not relieve the Defendant of any obligation imposed by applicable federal, state, or local law, regulation or tariff, nor shall the Attorney

General nor District Attorney be precluded from taking appropriate legal action to enforce civil or criminal statutes under this jurisdiction.

27. Defendant agrees that if any portion, provision, or part of this Consent Judgment is held to be invalid, unenforceable, or void for any reason whatsoever, that portion shall be severed and shall not affect the validity or enforceability of the remaining provisions, portions, or parts.

28. Defendant understands this Consent Judgment shall not be construed as an approval or sanction by the Attorney General or District Attorney of the business practices of the Defendant, nor shall the Defendant represent the decree of such approval. Parties further understand that any election by the Attorney General or District Attorney to forego any action in response to any information submitted pursuant to the Consent Judgment shall not be construed as an approval of or sanction of any representations, acts or practices indicated by such.

29. Nothing in this Consent Judgment shall be construed to limit the rights of any consumer from pursuing any and all legal remedies which they may be entitled to assert against the Defendant.

30. Defendant acknowledges and agrees that this Court has continuing jurisdiction over this matter pursuant to K.S.A. 50-632(b) and any breach of any of the terms or conditions set forth herein shall be treated as a violation of the Court's order and shall be subject to further penalties under the law.

31. This Court shall also retain such jurisdiction for the purpose of enabling any of the Parties to this Consent Judgment to apply to this Court at any time for such further orders and relief as may be necessary or appropriate for the modification or compliance of any provisions contained herein. This Court shall also retain jurisdiction if any violation of any term of this Consent Judgment is committed.

32. This Consent Judgment represents the entire agreement between Plaintiff and Defendant, and there are no representations, agreements, arrangements or understandings, oral or written, between the Parties relating to the subject matter of this Consent Judgment which are not fully expressed herein or attached hereto.

33. By signing this Consent Judgment, Defendant and the representative for Defendant warrant that they have been duly authorized to execute this Consent Judgment on behalf of Defendant, thus binding Defendant to the provisions of this Consent Judgment. Defendant further represents that they had an opportunity to consult with and obtain the advice of legal counsel prior to entering into this Consent Judgment.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED the stipulations and agreements of the Parties contained herein are found to be reasonable and are hereby adopted and approved as the findings of facts and conclusions of law of this Court.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that judgment is hereby entered against the Defendant, in favor of Plaintiffs in the amount of \$480,000.00 monetary payment.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that judgment is entered against Defendant, in favor of Plaintiffs, to pay the total amount of \$20,000.00 in investigation fees.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court shall retain jurisdiction over the Parties and subject matter of this action for the purpose of rendering any additional equitable relief, orders, decrees, or judgments as may be requested by the Parties or may be deemed appropriate by the Court.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, pursuant to the Kansas Consumer Protection Act and the provisions of K.S.A. 50-632(b), the Court hereby approves the terms of the Consent Judgment and adopts the same as the Order of the Court.

IT IS SO ORDERED.


THIS ORDER IS EFFECTIVE AS OF THE DATE AND TIME OF ITS ELECTRONIC FILING.

For Plaintiffs

Prepared and Submitted by:

/s/ Derek Schmidt
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/s/ Marc Bennett
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For Defendant

Kara Larson

Evergy Kansas Central, Inc.
f/k/a Westar Energy, Inc.

Kara Larson, Asst. General Counsel

Name and Title

Lucinda Luetkemeyer

Lucinda Luetkemeyer, #25326
Graves Garrett LLC