

STATE OF SOUTH CAROLINA)
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 COUNTY OF HORRY)
)
 George M Hearn, Jr., on Behalf of)
 Himself and All other Similarly Situated,)
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 Plaintiffs,)
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 v.)
)
 South Carolina Public Service Authority)
 d/b/a Santee Cooper,)
)
 Defendant.)
 _____)

IN THE COURT OF COMMON PLEAS
 FIFTEENTH JUDICIAL CIRCUIT
BUSINESS COURT

Civil Action No. 2017-CP-26-05256

**ORDER GRANTING SETTLEMENT
 CLASS CERTIFICATION, FINAL
 APPROVAL OF CLASS ACTION
 SETTLEMENT AND DISMISSING THE
 CASE WITH PREJUDICE**

On September 15, 2021, Plaintiff filed a Motion for Final Approval for a class action settlement with Defendant, South Carolina Public Service Authority (“Santee Cooper”). The Court, having reviewed the Motion for Final Approval, the Settlement Agreement, the pleadings and other papers on file in this action, and statements of counsel, hereby finds that the Motion should be GRANTED.

NOW, THEREFORE IT IS HEREBY ORDERED THAT:

1. For purposes of this Order, except as otherwise set forth herein, the Court adopts and incorporates the definitions contained in the parties’ Settlement Agreement (identified herein as “Settlement”).
2. The Court has held a hearing to consider whether the Settlement is fair, reasonable, and adequate; whether final judgment approving the Settlement and dismissing all claims with prejudice should be entered; whether attorneys’ fees, costs, and expenses and an incentive to the

Representative Plaintiff should be awarded and, if so, the amount of same; whether the Settlement Class should be certified for settlement purposes; and such other matters as appropriate.

3. Pursuant to South Carolina Rule of Civil Procedure 23, the Court certifies the following Class for settlement purposes only:

All residential and business retail customers who received power and energy from Santee Cooper and who had Accounts with Santee Cooper between November 1, 2009 and February 28, 2021.

4. The Court further finds that, for settlement purposes only, the prerequisites to a class action under Rule 23, SCRCP are satisfied in that:

a. the number of Class Members is so great that the joinder of all members impracticable;

b. there are questions of law and fact common to the Class;

c. the claims or defenses of the proposed Representative Plaintiff are typical of the claims or defenses of the Class;

d. the proposed Representative Plaintiff has fairly and adequately protected the interests of the Class, and has retained counsel experienced in class action litigation who have, and will continue to, adequately represent the Class;

e. questions of law or fact common to Class Members predominate over any questions affecting only individual members; and

f. the amount in controversy for each Class Member exceeds one hundred dollars (\$100.00).

5. The Settlement is the result of arm's length negotiations, taken in good faith, between counsel for the parties.

6. The Court has been advised that no objections were made to the Settlement.

7. The Court finds that the proposed Settlement is fair, adequate, and reasonable, and protects the interests of Class Members.

8. The Court appoints George M. Hearn, Jr. as the Representative Plaintiff.

9. The Court appoints the following attorneys as Class Counsel: Daniel S. Haltiwanger, William C. Lewis, and Brady R. Thomas of Richardson, Thomas, Haltiwanger, Moore & Lewis, LLC; Matthew A. Nickles of Rogers, Patrick, Westbrook & Brickman, LLC; Jack G. Gresh and Lauren S. Gresh of Hall Booth Smith, P.C.; and L. Morgan Martin of L. Morgan Martin, P.A.

10. The Court has personal jurisdiction over the Representative Plaintiff and the Settlement Class and subject matter jurisdiction to approve the Settlement.

11. The Court finds that notice given to Class Members in this action afforded Class Members notice and an opportunity to be heard; constituted the best notice practicable; was reasonably calculated under the circumstances to and did in fact apprise Class Members of the pendency of the action, the nature and terms of the proposed Settlement, their right to opt out or object, their right to appear at the Final Approval Hearing, and their right to seek relief; constituted reasonable, due, adequate and sufficient notice to all Persons entitled to notice; and complies in all respects with the requirements of Rule 23 of the South Carolina Rules of Civil Procedure, due process, and any other applicable law. The Settlement Administration Costs incurred by the Settlement Administrator shall be paid from the Settlement Benefit.

12. The Court approves the Distribution Plan and directs the parties to implement and consummate the Settlement according to its terms and conditions.

13. Eleven members of the Class have opted out. The valid opt out requests are reflected on Plaintiff's Identification of Requests for Exclusion filed with the Court.

14. Defendant, Releasees, and all claims are dismissed with prejudice in this lawsuit and, except as provided for in the Settlement, without cost. Releasees are hereby discharged and released of and from all Released Claims.

15. The parties are directed to comply with all of their obligations under the Settlement.

16. The Court declares that this Order and the judgment of the Court are and shall be binding on and have *res judicata* and preclusive effect in all pending and future lawsuits or other proceedings encompassed by the Released Claims maintained by or on behalf of Releasors, and that the Releasors have fully, finally, and forever released, relinquished, and discharged all Released Claims against the Releasees.

17. Class Members will not, hereafter, seek to establish liability against Defendant or seek to recover payment from Defendant, other than that expressly permitted by the Settlement, based, in whole or in part, upon any alleged violations by Defendant that are related to the claims alleged in this action involving the Pee Dee Plant Project. Class Members are hereby permanently enjoined and barred from initiating, continuing, asserting or prosecuting any and all claims against Defendant that are related to the claims alleged in this action involving the Pee Dee Plant Project.

18. The Settlement is a compromise of disputed issues and Settlement and any proceedings taken pursuant thereto are not and should not in any event be offered or received as evidence of any admission or concession of liability or any wrongdoing by Defendant or any Releasee.

19. Without affecting the finality of this judgment, the Court retains exclusive jurisdiction of this Settlement, including the administration and consummation of the Settlement.

20. The Court finds, pursuant to Rule 54(b) of the South Carolina Rules of Civil Procedure, that there is no just reason for delay in the entry of this Order and Final Judgment, and

directs the Clerk to immediately enter this Order and Final Judgment, dismissing the claims of the Representative Plaintiff and Class against Santee Cooper with prejudice.

IT IS SO ORDERED.

Dated: _____

By: _____
The Honorable Diane S. Goodstein
Business Court Judge



Horry Common Pleas

Case Caption: George M Hearn Jr VS Public Service Authority South Carolina ,
defendant, et al

Case Number: 2017CP2605256

Type: Order/Other

It is so Ordered!

s/Diane S. Goodstein