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NY Judge OKs \$38.5M National Grid Gas Cos. TCPA Deal

By Clark Mindock

Law360 (November 9, 2021, 9:05 PM EST) -- A New York federal judge has granted preliminary approval for a \$38.5 million settlement after a group of customers sued National Grid USA Service Co. and other gas companies for allegedly violating the Telephone Consumer Protection Act.

The deal was approved by U.S. District Judge Joanna Seybert on Monday when she determined that plaintiffs in the case have so far been represented adequately in the dispute by lead plaintiffs and the class council.

The deal, as proposed, would result in an average payout of between \$50 and \$150 for each member of the proposed class while also requiring the companies to implement new training programs and procedures to prevent any future TCPA violations. Judge Seybert said the terms of the deal seem fair.

"The court preliminarily finds that the settlement is substantively fair and treats the settlement class members equitably relative to each other," Judge she said.

The suit was first filed in 2015 by plaintiff Jarrett Jenkins and has since then added several more plaintiffs and produced several amended complaints.

The settlement **certifies a settlement class** of all U.S. residents who received unsolicited calls on their cellphones from March 9, 2011, until Oct. 29 of that year, using a prerecorded message or artificial voice concerning a number of topics, according to court documents. Those included messages regarding the payment or status of current or past National Grid bills, as well as messages regarding an "important matter" concerning current or past National Grid bills and other related issues.

National Grid was sued alongside co-defendants the Brooklyn Union Gas Company, the Niagara Mohawk Power Corp. and KeySpan Gas East Corp., as well as the Boston Gas Co., the Massachusetts Electric Co., the Nantucket Electric Co., the Narragansett Electric Co. and the Colonial Gas Co., which is now part of Boston Gas, according to the proposed settlement filed earlier this month.

In addition to the cash payment, that motion also said the defendant companies will also "implement significant and extensive policies and procedures designed to ensure that it complies with the TCPA and to make it easier for National Grid's new, current, and former customers to prevent National Grid from robocalling them."

The changes in policy provide National Grid's customers with multiple ways to prevent collection robocalls to their cellphones, according to the proposed settlement.

The proposed deal would also allow counsel for the proposed class to seek up to 33% of

the settlement fund for attorney fees.

Counsel for the plaintiffs said that they "are proud of the settlement and pleased with the order."

Counsel for the defendants did not immediately respond to requests for comment.

The proposed class is represented by Jonathan D. Selbin, Douglas I. Cuthbertson, John T. Nicolaou, Avery S. Halfon and Daniel M. Hutchinson of Lieff Cabraser Heimann & Bernstein LLP, and Joseph S. Tusa of Tusa PC.

The defendants are represented by Richard H. Brown of Day Pitney LLP.

The case is Jarrett Jenkins et al. v. National Grid USA Service Company et al., case number 2:15-cv-01219, in the U.S. District Court for the Eastern District of New York.

--Additional reporting by Craig Clough. Editing by Gemma Horowitz.

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