

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

IN RE: MOTOR FUEL TEMPERATURE)	
SALES PRACTICES LITIGATION)	
)	MDL No. 1840
(This Document Relates to All Cases))	Case No. 07-MD-1840-KHV
_____)	

ORDER

On November 5, 2014, the Court ordered plaintiffs to show cause in writing whether settlement class members would benefit from settlement provisions which make unused funds available to help facilitate ATC in other states before reverting back to the general fund of the state to which the funds were originally allocated.¹ See Order To Show Cause (Doc. #4777). Plaintiffs respond that the pooling provision benefits settlement class members by promoting activities which advance the goals sought by plaintiffs in this litigation. See Response To Order To Show Cause (Doc. #4779) filed November 13, 2014. Specifically, plaintiffs state that settlement class members will benefit because (1) the settlement classes are defined by purchases made in a state, not by state residency, and because the U.S. population is highly mobile, class members from any state can benefit from the expansion of ATC in another state; (2) plaintiffs alleged a conspiracy which harmed consumers in all states; and (3) allowing unused funds to be used for ATC in other states furthers the purpose of the litigation, *i.e.* to change the way the industry operates and facilitate a market transition to ATC. Id. at 1-7.

¹ The Court entered the order to show cause in light of an inconsistency in its orders regarding preliminary approval of multiple settlements. See Memorandum And Order (Doc. #4775) filed October 27, 2014 at 26-27 (it appears that class members who purchased motor fuel in one state would not benefit by giving settlement funds which are allocated to their state to another state to implement ATC in other state); Memorandum And Order (Doc. #4464) filed November 20, 2012 (preliminarily approving settlements in which unused funds will become available to help facilitate ATC in other states before reverting back to general fund of state to which funds were originally allocated); Memorandum And Order (Doc. #4424) filed September 28, 2012 (same).

For substantially the reasons stated in plaintiffs' response to the show cause order, the Court finds that with respect to the proposed settlements with E-Z Mart Stores, Inc., Love's Travel Stops & Country Stores, Inc., Sunoco, Inc. and Tesoro Refining and Marketing Company LLC, the potential benefit to class members weighs in favor of preliminary approval. See Memorandum And Order (Doc. #4775) at 25-26. Accordingly the Court preliminarily approves the proposed settlements.

As to all settlements which the Court has preliminarily approved, the Court sets the following deadlines for completing the notice and objection period:

February 20, 2015 - last day to provide notice to settlement class members;

March 23, 2015 - last day for class members to opt out of or object to settlements; and

April 10, 2015 - last day for settling parties to respond to objections.

On **Tuesday, June 9, 2015 at 9:30 a.m.**, the Court will hold a final approval hearing in Courtroom 643.

IT IS SO ORDERED.

Dated this 9th day of December, 2014 at Kansas City, Kansas.

s/ Kathryn H. Vratil _____
Kathryn H. Vratil
United States District Judge