



Department of Justice

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JUSTICE DEPARTMENT REQUIRES KEYSpan TO DISGORGE \$12 MILLION IN PROFITS FROM ANTICOMPETITIVE AGREEMENT

Derivative Contract Led to Higher Prices for Electricity Generating Capacity in New York City

WASHINGTON — The Department of Justice today announced a settlement with KeySpan Corporation that requires KeySpan to pay \$12 million for violating the antitrust laws by entering into an agreement restraining competition in the New York City electricity capacity market. The department said the financial derivative agreement likely resulted in a price increase for retail electricity suppliers and, in turn, an increase in electricity prices for consumers.

The department's Antitrust Division today filed a civil antitrust complaint in U.S. District Court for the Southern District of New York, along with the proposed settlement that, if approved by the court, would resolve the lawsuit. The settlement provides for disgorgement of profits for a violation of the antitrust laws and requires KeySpan to pay \$12 million to the United States.

According to the complaint, KeySpan and a financial services company entered into an agreement in January 2006 that gave KeySpan a financial interest in the electricity capacity sales of its largest competitor, Astoria. At the time of the agreement, KeySpan was the largest seller of electricity capacity in the New York City market. By providing KeySpan revenues from its competitor's capacity sales, as well as its own, the agreement with the financial services company had the anticompetitive effect of eliminating KeySpan's incentive to sell its electricity capacity at lower prices. As a result, retail electricity prices in New York City were likely higher than they would have been without this anticompetitive agreement. The anticompetitive effects of the agreement lasted until March 2008, when regulatory conditions eliminated KeySpan's ability to affect the market price of electricity capacity.

New York City's electricity generating capacity market was created to ensure that sufficient generation capacity exists to meet expected electricity needs. Electricity retailers serving consumers in the city are required to purchase capacity from generators in amounts related to their expected peak energy demand. Electricity generators offer to sell their capacity to electricity retailers in regularly held auctions.

KeySpan is a New York corporation and has its headquarters in New York City. Until 2008, KeySpan owned approximately 2400 megawatts of electric generating capacity at its

Ravenswood electrical generation facility located in New York City. KeySpan was purchased by National Grid in August 2007.

The proposed settlement, along with the department's competitive impact statement, will be published in The Federal Register, as required by the Antitrust Procedures and Penalties Act. Any person may submit written comments concerning the proposed settlement within 60 days of its publication to Donna N. Kooperstein, Chief, Transportation, Energy and Agriculture Section, Antitrust Division, U.S. Department of Justice, 450 5th St. NW, Suite 8000, Washington, D.C. 20530. At the conclusion of the 60-day comment period, the court may enter the Final Judgment upon a finding that it serves the public interest.

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