



Department of Justice

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JUSTICE DEPARTMENT SETTLES CIVIL CONTEMPT CLAIM AGAINST EXELON CORPORATION

Exelon Agrees to Pay \$400,000

WASHINGTON — Exelon Corporation has agreed to pay \$400,000 as part of a civil settlement with the Department of Justice that resolves Exelon's alleged violations of two court orders entered in connection with Exelon's acquisition of Constellation Energy Group.

The Department of Justice's Antitrust Division yesterday filed a petition in the U.S. District Court for the District of Columbia asking it to find Exelon in civil contempt of a consent decree and a related order. At the same time, the department filed a settlement agreement and order, subject to court approval, that would resolve the department's concerns. The payment to the United States represents disgorgement of profits gained through Exelon's alleged violations and reimbursement to the department for the cost of its investigation.

"In order for the Antitrust Division's settlements to be effective in preserving competition and protecting consumers, companies must fully adhere to the terms of their court-ordered agreements," said Joseph F. Wayland, Acting Assistant Attorney General in charge of the Department of Justice's Antitrust Division. "The Antitrust Division will vigorously prosecute those who enter into agreements with the department and do not comply with their legal obligations."

Under the consent decree filed in December 2011, Exelon was required to sell three electricity plants in Maryland—Brandon Shores and H.A. Wagner in Anne Arundel County, Md. and C.P. Crane in Baltimore County, Md.—in order to proceed with its \$7.9 billion merger with Constellation. Exelon was required to abide by a hold separate stipulation and order that placed restrictions on Exelon's conduct between the time Exelon closed its acquisition of Constellation and the time it completed the plant divestitures required by the consent decree. The hold separate required Exelon, during this period, to bid certain of its electricity generating plants at or below cost to ensure that Exelon would not be able to raise market prices for electricity. In consenting to entry of the hold separate and the consent decree, Exelon specifically agreed to "take all steps necessary to comply" with its legal obligations.

According to the petition filed by the department, Exelon failed to fulfill its obligations under the two court orders. The petition alleges that Exelon submitted certain offers for sales of electricity during this period at above-cost prices and that Exelon failed to take all necessary

steps to ensure that its offers would comply with the hold separate's requirements. Exelon claims, and the United States does not dispute, that Exelon's above-cost offers were inadvertent.

In determining the disgorgement amount, the United States took into account that Exelon, upon recognizing that it had made above-cost offers, took appropriate remedial steps, including notifying the United States and market regulators (i.e. the Federal Energy Regulatory Commission and the Maryland Public Service Commission, both of which also approved Exelon's acquisition of Constellation), implementing measures to ensure that no additional above cost-offers occurred, and agreeing with the market regulators to return any incremental revenues Exelon earned from, and to redress any market harm caused by, its above-cost offers. The \$400,000 payment is separate and above the payments Exelon is making to the market regulators.

Exelon is incorporated in Pennsylvania and has its headquarters in Chicago. Exelon owns the PECO utility of Philadelphia and the Commonwealth Edison utility of Chicago. With its acquisition of Constellation Energy Group Inc., Exelon now owns the BG&E utility of Baltimore. Exelon had \$18.9 billion of revenues in 2011.

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