IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Senior Judge Richard P. Matsch

Civil Action No. 12-cv-00395-RPM-MEH

UNITED STATES OF AMERICA

Plaintiff,

v.

SG INTERESTS I, LTD.,
SG INTERESTS VII, LTD., and
GUNNISON ENERGY CORPORATION

Defendants.

UNOPPOSED MOTION FOR ENTRY OF THE FINAL JUDGMENT AND MEMORANDUM IN SUPPORT

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)-(h) ("APPA" or "Tunney Act"), plaintiff United States of America ("United States") moves for entry of the proposed Final Judgment filed in this civil antitrust proceeding. The proposed Final Judgment (attached as Exhibit A) may be entered at this time without further hearing if the Court determines that entry is in the public interest.

Plaintiff United States and Defendants Gunnison Energy Corporation ("GEC") and SG Interests I, Ltd., and SG Interests VII, Ltd., ("SGI") have stipulated to entry of the proposed Final Judgment without further notice to any party or other proceedings. The Competitive Impact Statement ("CIS") and Response to Public Comments, filed by the United States on February 15, 2012, and August 3, 2012, respectively, explain why entry of the proposed Final

Judgment is in the public interest. The United States is filing simultaneously with this motion a Certificate of Compliance setting forth the steps taken by the parties to comply with all applicable provisions of the APPA and certifying that the statutory waiting periods have expired.

I. Background and Compliance with the APPA

The United States brought this lawsuit against Defendants on February 15, 2012, to remedy a violation of Section 1 of the Sherman Act, 15 U.S.C. § 1. The Complaint alleges that in 2005, Defendants GEC and SGI entered into an anticompetitive agreement that eliminated competitive bidding between the companies for four leases of federal land in the Ragged Mountain Area of western Colorado. As further alleged in the Complaint, this agreement significantly reduced competition for these leases, and as a result, the United States received substantially less revenue from the sale of the leases than it would have had SGI and GEC competed against each other at the auctions.

Simultaneously with the filing of the Complaint, the United States filed the proposed Final Judgment and a Stipulation signed by Plaintiff and Defendants consenting to the entry of the proposed Final Judgment after compliance with the requirements of the APPA. As set forth in its Certificate of Compliance, the United States confirms that all such requirements have been satisfied.

II. Standard of Judicial Review

Before entering the proposed Final Judgment, the Court is to determine whether the Judgment "is in the public interest." *See* 15 U.S.C. § 16(e). In making that determination, the Court shall consider:

A) the competitive impact of such judgment, including termination of alleged violations,

provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and

B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. § 16(e).

In its CIS filed on February 15, 2012, and its Response to Public Comments filed on August 3, 2012, the United States set forth the public interest standard under the APPA and incorporates those statements herein. The public has had the opportunity to comment on the proposed Final Judgment as required by law. As explained in the CIS and the Response to Public Comments, the proposed Final Judgment is within the range of settlements consistent with the public interest, and the United States therefore requests that this Court enter the proposed Final Judgment.

III. Conclusion

For the reasons set forth in this Motion, the CIS, and the Response to Public Comments, the United States respectfully requests that the Court enter the proposed Final Judgment.

Dated: August 16, 2012

Respectfully submitted,

s/ Sarah L. Wagner

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CERTIFICATE OF SERVICE

I hereby certify that on August 16, 2012, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following e-mail addresses:

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s/ Sarah L. Wagner
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EXHIBIT A

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UNITED STATES OF AMERICA

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Defendants.

FINAL JUDGMENT

WHEREAS Plaintiff, United States of America, filed its Complaint alleging that Defendants Gunnison Energy Corporation ("GEC") and SG Interests I, Ltd. and SG Interests VII, Ltd. (collectively "SGI") violated Section 1 of the Sherman Act, 15 U.S.C. §1, and Plaintiff and Defendants, through their respective attorneys, have consented to the entry of this Final Judgment without trial or final adjudication of any issue of fact or law, for settlement purposes only, and without this Final Judgment constituting any evidence against or an admission by GEC or SGI with respect to any allegation contained in the Complaint.

NOW, THEREFORE, before the taking of any testimony and without trial or final adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby ORDERED, ADJUDGED, AND DECREED:

I. JURISDICTION

This Court has jurisdiction of the subject matter of this action and each of the parties consenting hereto. The Complaint states a claim upon which relief may be granted to the United States against GEC and SGI under Section 1 of the Sherman Act, 15 U.S.C. §1.

II. APPLICABILITY

This Final Judgment applies to GEC and SGI and to all other persons in active concert or participation with any of them who have received actual notice of this Final Judgment by personal service or otherwise.

III. PAYMENT

GEC and SGI shall each pay to the United States within ten (10) days of the entry of this Final Judgment the amount of two hundred seventy-five thousand dollars ($275,000), as set forth in the settlement agreements attached hereto as Attachments 1 and 2, to satisfy claims that the United States has against each defendant under both the False Claims Act and the Sherman Act. No additional payments are called for under this Final Judgment.

IV. RETENTION OF JURISDICTION

This Court retains jurisdiction to enable any of the parties to this Final Judgment to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify or terminate any of its provisions, to enforce compliance, and to punish violations of its provisions.

V. PUBLIC INTEREST DETERMINATION

Entry of this Final Judgment is in the public interest. The parties have complied with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16, including making

copies available to the public of this Final Judgment, the Competitive Impact Statement, and any comments thereon and Plaintiff's responses to comments. Based upon the record before the Court, which includes the Competitive Impact Statement and any comments and response to comments filed with the Court, entry of this Final Judgment is in the public interest.

DATED: _____

_____
UNITED STATES DISTRICT JUDGE