



Issue Date: 14 February 2005

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In the Matter of

MICHAEL T. MOREFIELD
Complainant

Case No. 2004 SOX 00002

v.
EXELON SERVICES INC., and
EXELON CORPORATION
Respondent

.....

Order Approving Settlement and Dismissing

This proceeding arises pursuant to a complaint filed by Michael T. Morefield against Exelon Corporation and Exelon Services, Inc. alleging violations by Respondents of the employee protection provisions of the Sarbanes-Oxley Act of 2002, 18 U.S.C. 1514A. (hereinafter Sarbanes-Oxley). Following a two week trial and the submission of briefs, and while the matter was in the final stage of the decision issuance process, the parties on January 25, 2005, filed a request for approval of a Settlement Agreement and General Release of Claims and a Stipulation for Dismissal. Accordingly, this is an adjudicatory settlement within the meaning of 29 C.F.R. § 1980.111(d)(2).

I have carefully reviewed the terms of the agreement. I note that it encompasses the settlement of matters arising under both Sarbanes-Oxley and state statutes. Paragraph 10 of the Agreement further provides that the settlement is “governed by the laws of the State of Illinois. *See* Agreement ¶ 10. Consistent with the Secretary’s decision in Phillips v. Citizens Assoc. for Sound Energy, 91 ERA 25 (Nov. 4, 1991), I interpret Paragraph 10 as limited to the state claims the Agreement settles. I do not construe it as a provision limiting the authority of the Secretary or the United States district court to take such action with respect to this matter they deem appropriate under Sarbanes-Oxley or the regulations promulgated and published by the Department of Labor to implement the Act. *See also*, Milewski v. Kansas Gas and Electric Co., Case No. 85-ERA-0021, Sec.

Order Approving Settlement Agreement and Dismissing Complaint, June 23, 1990, slip op. at 2.

The parties further request confidential treatment of the Agreement. The terms and conditions under which the Agreement is accorded such treatment by the Department of Labor and the laws and regulations that apply if a request for disclosure of the Settlement Agreement were filed in the future must be governed by applicable federal laws and regulations, not Paragraph 10 of the Agreement.

The parties have designated the Settlement Agreement as confidential commercial information. The rules according confidential treatment to such information are set forth at 29 C.F.R. § 70.26, and the disclosure or non-disclosure of such information is governed by the Freedom of Information Act, 5 U.S.C. 552(b)(4) and decisions of the federal courts interpreting that provision.

As so construed, I find the terms of the Settlement Agreement to be fair, adequate, and reasonable, and, therefore;

ORDER

IT IS ORDERED that the Settlement Agreement and General Release of Claims be, and it hereby is, approved, and;

IT IS FURTHER ORDERED that the complaint filed in this matter, be, and it hereby is, dismissed with prejudice, and;

IT IS FURTHER ORDERED that the Settlement Agreement be accorded confidential treatment under 29 C.F.R. § 70.26.

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Stuart A. Levin
Administrative Law Judge