How a Typical Tolling Agreement Cost Duke Energy Corporation $600,000

Tolling agreements are a common feature of the energy industry. Through these agreements, a buyer will supply fuel to an electric generator and, in return, the generator will provide power back to the buyer, according to **an article** posted on the website of **Hogan Lovells**.

But a court recent ruled that such a tolling agreement, when entered into between companies that intended to merge, violated the Hart-Scott-Rodino Antitrust Improvements Act of 1976, leading to the imposition of significant financial penalties against the buyer.

"Parties that have or may have an interest in acquiring the other party to the agreement must be careful to avoid assuming beneficial ownership of the target before complying with the HSR Act's reporting requirements if HSR notification would be required," the article says. "Failure to do so may result in the tolling agreement being construed as evidence of gun-jumping and the acquiring person being subject to significant penalties of up to $40,654 per day for noncompliance."

Read the article.

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