ATTORNEY GENERAL J.B. VAN HOLLEN LAUDS FEDERAL APPELLATE DECISION UPHOLDING THE ABILITY OF INJURED WISCONSIN BUSINESSES AND CONSUMERS TO RECOVER UNDER THE STATE’S ANTITRUST LAWS

MADISON — Attorney General J.B. Van Hollen announced today that a federal appellate court has ruled in an important decision that federal law does not prevent Wisconsin businesses and other consumers of natural gas from using the state’s antitrust laws to obtain damages for the illegal manipulation of natural gas prices.

Several Wisconsin businesses and other entities filed lawsuits alleging that the defendants, a variety of energy companies in the natural gas industry, had conspired to manipulate the price of natural gas during 2000 to 2002. As a result, according to the lawsuits, Wisconsin gas purchasers paid hundreds of millions of dollars in excessive prices, which resulted from an illegal price-setting conspiracy prohibited by Wisconsin antitrust law. Wisconsin antitrust law, among other things, prohibits conspiracies to manipulate prices and allows injured parties to sue to recover their damages caused by the illegal price manipulation. The Wisconsin parties who brought the cases include Briggs & Stratton, NewPage, Sargento Foods, Ladish Co., Arandell Corporation, Merrick’s, Inc., and Carthage College.

A lower court decision ruled that federal energy statutes governing the natural gas industry preempted state antitrust law, essentially rendering state antitrust law unenforceable. On appeal, the Wisconsin Department of Justice filed a friend-of-the-court brief supporting the position of the Wisconsin plaintiffs that federal law does not preempt Wisconsin’s antitrust law.

In a ruling earlier this week, the United States Court of Appeals for the Ninth Circuit agreed with the state’s position and reversed the lower court. The decision allows those Wisconsin businesses who brought the lawsuit to proceed with their claims under state law, and to seek recovery for the illegal price manipulation alleged in the pleadings.

“I am very pleased with the court’s decision allowing these major Wisconsin employers, and other consumers, to utilize state antitrust law to remedy illegal price manipulation,” Attorney General Van Hollen said. “Wisconsin purchasers of natural gas can be severely harmed by illegal price increases, and the court’s ruling ensures that our law can fulfill its intended purpose of preventing and remedying illegal anticompetitive conduct.”

The cases will now be returned to the lower court for determination of the merits of the parties’ claims. A copy of the decision is available at the following link: Click Here

The state was represented in this matter by Assistant Attorney General Gwendoly J. Cooley.