

v. *United States*, 460 U.S. 1001 (1983); see also *United States v. Alcan Aluminum Ltd.*, 605 F. Supp. 619, 622 (W.D. Ky. 1985) (approving the consent decree even though the court would have imposed a greater remedy). To meet this standard, the United States “need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms.” *SBC Commc’ns*, 489 F. Supp. 2d at 17.

Moreover, the court’s role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its Complaint, and does not authorize the court to “construct [its] own hypothetical case and then evaluate the decree against that case.” *Microsoft*, 56 F.3d at 1459; see also *InBev*, 2009 U.S. Dist. LEXIS 84787, at \*20 (“the ‘public interest’ is not to be measured by comparing the violations alleged in the complaint against those the court believes could have, or even should have, been alleged”). Because the “court’s authority to review the decree depends entirely on the government’s exercising its prosecutorial discretion by bringing a case in the first place,” it follows that “the court is only authorized to review the decree itself,” and not to “effectively redraft the complaint” to inquire into other matters that the United States did not pursue. *Microsoft*, 56 F.3d at 1459–60. As this Court recently confirmed in *SBC Communications*, courts “cannot look beyond the complaint in making the public interest determination unless the complaint is drafted so narrowly as to make a mockery of judicial power.” *SBC Commc’ns*, 489 F. Supp. 2d at 15.

In its 2004 amendments, Congress made clear its intent to preserve the practical benefits of utilizing consent decrees in antitrust enforcement, adding the unambiguous instruction that “[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene.” 15 U.S.C. 16(e)(2). The language wrote into the statute what Congress intended when it enacted the Tunney Act in 1974, as Senator Tunney explained: “[t]he court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.” 119 Cong. Rec. 24,598 (1973) (statement of Senator Tunney). Rather, the procedure for the public interest determination is left to the discretion of the court, with the recognition that the court’s “scope of review remains sharply

proscribed by precedent and the nature of Tunney Act proceedings.” *SBC Commc’ns*, 489 F. Supp. 2d at 11.<sup>3</sup>

#### VIII. Determinative Documents

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

Dated: May 21, 2010.

Respectfully submitted,

/s/

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#### NEIGHBORHOOD REINVESTMENT CORPORATION

##### Neighborworks America; Regular Board of Directors Sunshine Act Meeting

**TIME AND DATE:** 1 p.m., Tuesday, June 1, 2010.

**PLACE:** 1325 G Street, NW., Suite 800, Boardroom Washington, DC 20005.

**STATUS:** Open.

**CONTACT PERSON FOR MORE INFORMATION:** Erica Hall, Assistant Corporate Secretary (202) 220-2376; [ehall@nw.org](mailto:ehall@nw.org).

##### Agenda

I. Call To Order.

II. Approval of the Minutes.

III. Approval of the Minutes.

IV. Summary Report of the Audit Committee.

V. Summary Report of the Finance, Budget and Program Committee.

VI. Summary of the NHSA Special Board Committee Meeting.

VII. Summary of the NHSA Special Board of Directors Meeting.

<sup>3</sup> See *United States v. Enova Corp.*, 107 F. Supp. 2d 10, 17 (D. DC 2000) (noting that the “Tunney Act expressly allows the court to make its public interest determination on the basis of the competitive impact statement and response to comments alone”); *United States v. Mid-Am. Dairymen, Inc.*, 1977-1 Trade Cas. (CCH) & 61,508, at 71,980 (W.D. Mo. 1977) (“Absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should \* \* \* carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.”); S. Rep. No. 93-298, 93d Cong., 1st Sess., at 6 (1973) (“Where the public interest can be meaningfully evaluated simply on the basis of briefs and oral arguments, that is the approach that should be utilized.”)

VIII. Summary Report of the Corporate Administration Committee.

IX. Board Appointments.

X. Code of Conduct.

XI. Investment Policy.

XII. Strategic Planning Process Timeline.

XIII. Financial Report.

XIV. Corporate Scorecard.

XV. NHSA Update.

XVI. Chief Executive Officer’s Quarterly Management Report.

XVII. Adjournment

**Erica Hall,**

*Assistant Corporate Secretary.*

[FR Doc. 2010-12974 Filed 6-2-10; 8:45 am]

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#### NEIGHBORHOOD REINVESTMENT CORPORATION

##### NHSA Special Board of Directors Meeting; Sunshine Act

**TIME AND DATE:** 12:30 p.m., Tuesday, May 11, 2010.

**PLACE:** 1325 G Street, NW., Suite 800, Boardroom, Washington, DC 20005.

**STATUS:** Open.

##### CONTACT PERSON FOR MORE INFORMATION:

Erica Hall, Assistant Corporate Secretary, (202) 220-2376; [ehall@nw.org](mailto:ehall@nw.org).

##### AGENDA:

I. Call to Order.

II. Discussion and Recommendation For Interim Funding.

III. Adjournment.

**Erica Hall,**

*Assistant Corporate Secretary.*

[FR Doc. 2010-12975 Filed 6-2-10; 8:45 am]

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#### NUCLEAR REGULATORY COMMISSION

[Docket No. 52-011; NRC-2008-0252]

##### Southern Nuclear Operating Company, et al; Notice of Consideration of Issuance of Amendment to Early Site Permit, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of license amendment request, opportunity to comment, and opportunity to request a hearing.

**DATES:** Submit comments by July 6, 2010. Requests for a hearing or leave to intervene must be filed by August 2, 2010.

##### FOR FURTHER INFORMATION CONTACT:

Chandu Patel, Project Manager, AP1000