

Calpine Corp. \$5.6B Deal Facing Del. Chancery Appraisal

By **Rose Krebs**

Law360 (July 6, 2018, 2:02 PM EDT) -- A Calpine Corp. shareholder filed a petition on Thursday in Delaware Chancery Court asking for an appraisal of the company's \$5.6 billion deal that closed in March and took the Texas-based power giant private.

Marble Holdings LLC, which owned just less than 18 million shares of Calpine's common stock before the transaction was finalized, according to the petition, is asking the Chancery Court to determine the fair market value of the stock. Calpine stockholders received \$15.25 per share at the time the acquisition was finalized on March 8 and the company was no longer publicly traded, according to a company news release.

In its four-page petition, Marble Holdings said it was filing the request within the time frame required and in accordance with Delaware General Corporation Law. It has not sought payment for its shares, the filing says. The petition makes no mention of why it believes the stock may be undervalued.

Marble Holdings asked the court to "enter judgment requiring [Calpine Corp.] to pay [Marble Holdings LLC] and any other stockholders who perfected appraisal rights the fair value of their shares as determined by the court," the filing says.

Under Delaware law, stockholders can petition the Chancery Court to appraise their shares after a merger if they didn't vote in favor of it. If the court rules that the stock was undervalued, the company may have to pay additional money to petitioning shareholders. There is also a risk the stock could be undervalued and the stockholders would lose the difference.

Calpine Corp. was purchased by an affiliate of Energy Capital Partners and other investors, including Access Industries Inc. and the Canada Pension Plan Investment Board, according to a company news release. The company, founded in 1984, touts itself as the nation's "largest generator of electricity from natural gas and geothermal resources with operations in competitive power markets."

The company has 80 power plants, services customers in 25 states, Canada and Mexico and generates enough electricity to power about 21 million homes, according to its website.

The acquisition deal was announced last August, with unanimous approval from Calpine's board of directors, just weeks after reports that Energy Capital Partners was in advanced talks to pick up Calpine. The company's headquarters remains in Houston.

Representatives for Calpine Corp. and Marble Holdings did not immediately respond to requests for comment on Friday.

Counsel information for Marble Holdings LLC was not immediately available on Friday.

Marble Holdings is represented by Myron T. Steele and T. Brad Davey of Potter Anderson & Corroon LLP, and Erik J. Olson and Kayvan B. Sadeghi of Morrison & Foerster LLP.

The case is Marble Holdings LLC v. Calpine Corporation, case number 2018-0492, in the Delaware Court of Chancery.

--Additional reporting by Benjamin Horney and Matt Chiappardi. Editing by Stephen Berg.