

Summary of Commission Decision**of 28 October 2011****amending Commitments Nos 73 and 84 in the Decision in Case COMP/M.4180 — Gaz de France/Suez****(Case COMP/M.4180 — Gaz de France/Suez)***(notified under document C(2011) 7572)***(Only the French version is authentic)***(2013/C 51/05)*

On 28 October 2011, the Commission adopted a Decision modifying commitments made in a merger case under Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings ⁽¹⁾, and in particular Article 8(2) of that Regulation. A non-confidential version of the full Decision can be found in the authentic language of the case and in the working languages of the Commission on the website of the Directorate-General for Competition, at the following address:

http://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=2_M_4180

I. INTRODUCTION

- (1) By its Decision of 14 November 2006 ⁽²⁾, the Commission authorised the merger of GDF and Suez, subject to the implementation of commitments (hereinafter ‘the Commitments’).
- (2) The Commitments included, inter alia, commitments related to: (i) the development of gas storage capacity in France, with their excess capacity to be offered on the market (Commitment No 73); and (ii) the installation of a gas deodorisation plant at Taisnières, on the French-Belgian border (Commitment No 84).
- (3) By letters of 9 November 2009, 24 June 2011 and 18 July 2011, GDF Suez (the new entity resulting from the merger of 16 July 2008) informed the Commission of difficulties in implementing Commitments Nos 73 and 84 and requested their modification (hereinafter ‘the Requests’). It also proposed modified commitments for Commitment No 73 and informed the Commission that the Hauterive site would substitute the Alsace site initially foreseen in the same commitment.
- (4) As regards Commitment No 73, the assessment of GDF Suez’s request has revealed that there exist legitimate grounds to delay the sale of storage capacity (but not the date by which the capacity will be made available to the

market as foreseen in the Commitments) and to accept the modified commitments proposed by GDF Suez ensuring the success of this sale. In particular, the modified commitments regarding the sale of multiannual capacity, reserve price ceiling and timing relative to reserving gas transmission capacity are likely to ensure maximum success in the future sale of storage capacity.

- (5) As regards Commitment No 84, the assessment has revealed that the construction of the deodorisation plant is seriously jeopardised by factors beyond the control of GDF Suez and, moreover, it no longer corresponds to real market demand. The conclusion can thus be made that GDF Suez’s request to be relieved of Commitment No 84 is based on legitimate grounds.

II. CONCLUSION

- (6) For the reasons explained above, the decision concludes that:
 - Commitment No 73 is amended: the sale of storage capacity of the Hauterive site (the substitute for the Alsace site) will be delayed and will be conducted in accordance with the principles as exposed by GDF Suez in the Requests;
 - Commitment No 84 is withdrawn.

⁽¹⁾ OJ L 24, 29.1.2004, p. 1.

⁽²⁾ Case COMP/M.4180 — Gaz de France/Suez, Commission Decision of 14 November 2006.