

Summary of Commission Decision
of 4 August 2009

relating to a proceeding under Article 86(3) of the EC Treaty establishing the specific measures to correct the anti-competitive effects of the infringement identified in the Commission Decision of 5 March 2008 on the granting or maintaining in force by the Hellenic Republic of rights in favour of Public Power Corporation S.A. for the extraction of lignite

(Case COMP/B-1/38.700)

(notified under document C(2009) 6244)

(Only the Greek text is authentic)

(2009/C 243/04)

- (1) On 4 August 2009, the Commission adopted a Decision pursuant to Article 86(3) of the EC Treaty establishing the specific measures to correct the anti-competitive effects of the infringement identified in the Commission Decision of 5 March 2008 (the 'March 2008 Decision') on the granting or maintaining in force by the Hellenic Republic of rights in favour of Public Power Corporation S.A. for the extraction of lignite.
- (2) The Commission herewith publishes the main content of the Decision. Non-confidential versions of the integral text of the Decision (the 'present Decision') in the authentic language and in English, French and German are available on the Directorate-General for Competition's website at the following address: <http://ec.europa.eu/comm/competition/antitrust/cases/index.html>
- (3) The present Decision, which is addressed to the Hellenic Republic, concerns the granting and maintaining by the Hellenic Republic of a quasi-monopolistic access to lignite in favour of the public undertaking Public Power Corporation S.A. (PPC), a corporation seated in the municipality of Athens, Greece.
- (4) In its Decision of March 2008, Commission found that the Hellenic Republic had infringed Article 86(1) in conjunction with Article 82 of the EC Treaty to the extent that it granted and maintained privileged access to PPC for the exploitation of lignite in Greece, thereby creating inequality of opportunity between economic operators as regards access to primary fuels (i.e. lignite) for the production of electricity and enabling PPC to maintain or reinforce its dominant position on the Greek wholesale electricity market by excluding or hindering market entry by new-comers. The March 2008 Decision called upon the Hellenic Republic to propose measures to correct the anti-competitive effects of this infringement.
- (5) Following notification of the March 2008 Decision, the Hellenic Republic has communicated a list of measures it intends to adopt with a view to ensuring access to competitors of PPC in the Greek electricity market to lignite and lignite fired-generation. These measures include in particular the granting of exploitation rights on the Greek lignite deposits of Drama, Ellassona, Vevi and Vegora through tender procedures to entities other than PPC.
- (6) The present Decision, addressed to the Hellenic Republic, recalls the findings made in the March 2008 Decision, takes note of the proposed remedies and makes them binding within a certain timeframe. It also confirms the initial view of the Commission, as set out in the March 2008 Decision, that the scope of the remedies to be adopted by the Hellenic Republic should be such so as to ensure that lignite reserves representing around 40 % of exploitable reserves in Greece are made available to competitors of PPC.
- (7) By implementing the proposed measures, the Hellenic Republic would thus take the necessary steps with a view to removing the anticompetitive effects of the State measures as set out at Article 1 of the operative part of the Decision of March 2008. The present Decision provides that the tender procedures for the deposits of Drama, Ellassona and Vegora shall be launched and implemented at the latest within six months from the notification of this Decision, while allocation rights shall be granted to the successful bidders at the latest within 12 months of the notification of this Decision. As regards Vevi, the present Decision provides that the allocation of exploitation rights shall take place within six months of the notification of the Decision given that the tender procedure for this reserve has already been launched.

- (8) The present Decision also provides that the Hellenic Republic shall ensure that the lignite to be extracted from the deposits of Drama, Elassona and Vegora cannot be supplied to PPC unless no other reliable offer is made. This condition shall apply so long as PPC owns exploitation rights on more than 60 % of all lignite reserves licensed for exploitation in Greece.
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