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(Announcements)

PROCEDURES RELATING TO THE IMPLEMENTATION OF THE COMPETITION
POLICY

COMMISSION

Notice published pursuant to Article 27(4) of Council Regulation (EC) No 1/2003 in Case COMP/B-
1/39.351 — Swedish Interconnectors

(Text with EEA relevance)

(2009/C 239/04)

1. INTRODUCTION

(1) According to Article 9 of the Council Regulation (EC) No 1/2003 ⁽¹⁾, the Commission may decide — in cases where it intends to adopt a decision requiring that an infringement is brought to an end and the parties concerned offer commitments to meet the concerns expressed to them by the Commission in its preliminary assessment — to make those commitments binding on the undertakings. Such a decision may be adopted for a specified period and shall conclude that there are no longer grounds for action by the Commission. According to Article 27(4) of the same Regulation, the Commission shall publish a concise summary of the case and the main content of the commitments. Interested parties may submit their observations within the time limit fixed by the Commission.

2. SUMMARY OF THE CASE

(2) On 25 June 2009 the Commission adopted a preliminary assessment pursuant to Article 9 (1) of Regulation (EC) No 1/2003 concerning alleged infringements of the Swedish transmission system operator Svenska Kraftnät ('SvK') on the Swedish electricity transmission market.

(3) According to the preliminary assessment SvK is dominant on the Swedish electricity transmission market. The preliminary assessment expressed the concern that SvK may have abused its dominant position according to Article 82 of the EC Treaty and Article 54 of the EEA Agreement: SvK may have done so notably when it anticipated internal congestion within the Swedish transmission system by reducing interconnection capacity for trade between Sweden and neighbouring Member States of the EU and the EEA thereby discriminating between domestic and export electricity transmission services and segmenting the internal market without objective justification.

3. THE MAIN CONTENT OF THE OFFERED
COMMITMENTS

(4) SvK does not agree with the Commission's preliminary assessment. It has nevertheless offered commitments pursuant to Article 9 of Regulation (EC) No 1/2003, to meet the Commission's competition concerns. The key elements of the commitments can be summarised as follows:

(5) SvK will subdivide the Swedish transmission system into two or more bidding zones and operate the Swedish transmission system on this basis by 1 July 2011 at the latest. The configuration of the bidding zones will be flexible enough so that it can be modified sufficiently fast to adapt to foreseen and unforeseen changes in the future flow patterns on the Swedish transmission system. From the date the bidding zones are operative, SvK will manage congestion in the Swedish transmission system without limiting trading capacity on interconnectors.

(6) There will be one exception to this principle of management of internal congestion: that is congestion in the West Coast corridor. However, SvK commits to reinforce the West Coast Corridor section by building and operating a new 400 kV transmission line between Stenkullen and Strömme-Lindome by 30 November 2011.

(7) During the interim period, i.e. the period between the notification of the commitment decision and the date on which the bidding zones become operative, SvK commits to manage any congestion that it would anticipate in the Swedish transmission system, with the exception of the West Coast Corridor, by taking into account regulating resources suitable for countertrade to address congestion. In practice, in the planning phase, once it has anticipated a congestion and thus identified a corresponding curtailment

⁽¹⁾ OJ L 1, 4.1.2003, p. 1.

need (MW), SvK commits to identify all regulating resources suitable for countertrade which it can expect to be available in the operational phase to address such congestion. SvK will subsequently rank up these resources in merit order and select the cheaper ones which add up to the amount of curtailment identified. Out of these selected resources SvK will select further those located in Sweden and add them up to obtain an amount (MW). SvK commits to deduce this amount from the curtailment need initially anticipated. If as a result of this deduction, there still remains an amount of curtailment, SvK commits to apply this reduced curtailment amount on relevant interconnector trading capacities. In the operational phase, SvK commits to use any available regulating resource suitable to address congestion in order to guarantee the interconnector trading capacities that it will have given to the market. The actual countertrade volume needed may be larger or smaller than the expected volume identified in the planning phase.

- (8) The commitments are published in full in English on the website of the Directorate-General for Competition at: http://ec.europa.eu/comm/competition/index_en.html

4. INVITATION TO MAKE COMMENTS

- (9) The Commission intends, subject to market testing, to adopt a decision under Article 9(1) of Regulation (EC)

No 1/2003 declaring commitments summarised above and published on the Internet, on the website of the Directorate-General for Competition, to be binding.

- (10) In accordance with Article 27(4) of Regulation (EC) No 1/2003, the Commission invites interested third parties to submit their observations on the proposed commitments. In this context, the Commission asks interested parties to comment in particular on the exclusion of the West-Coast-Corridor from the commitment to introduce bidding zones. All observations must reach the Commission not later than one month following the date of this publication. Interested third parties are also asked to submit a non-confidential version of their comments, in which commercial secrets and other confidential passages are deleted and are replaced as required by a non-confidential summary or by the words 'commercial secrets' or 'confidential'. Legitimate requests will be respected.
- (11) Observations can be sent to the Commission under reference number COMP/B-1/39.351 — Swedish Interconnectors either by e-mail (COMP-GREFFE-ANTITRUST@ec.europa.eu), by fax (+32 22950128) or by post, to the following address:

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