



EUROPEAN COMMISSION

The Hearing Officer

FINAL REPORT OF THE HEARING OFFICER

in case COMP/B-1/37.966 - Distrigaz

**(pursuant to Articles 15 and 16 of Commission Decision (2001/462/EC, ECSC)
of 23 May 2001 on the terms of reference of Hearing Officers
in certain competition proceedings – OJ L162, 19.06.2001, p.21)**

The draft Decision gives rise to the following observations:

Background of the case

The present case results from an ex officio investigation that focussed initially on three gas supply contracts concluded between Distrigaz SA / Distrigaz NV ("Distrigas") and an industrial customer in Belgium. The Commission came to the preliminary conclusion that certain aspects of these contracts constituted restrictions of competition and abuses of dominant position on the gas supply market in Belgium contrary to Articles 81 and 82 of the EC Treaty.

I. Preliminary assessments

A Statement of Objections ("SO") was notified to Distrigas and an industrial customer on 1 March 2004. Upon request, I granted an extension to Distrigas to reply to the SO until 19 May 2004. Both Distrigas and the industrial customer submitted written responses to the SO.

An oral hearing took place on 16 June 2004, at which Distrigas and the industrial customer presented their views on the Commission's concerns.

On 30 June 2005, the Commission adopted a Preliminary Assessment ("PA") addressed to Distrigas dealing with competition concerns under Article 82 EC in relation to Distrigas' gas supply contracts with a variety of industrial customers in Belgium.

The Commission subsequently adopted a Supplementary Statement of Objections ("SSO") on 8 May 2006 addressed to Distrigas dealing with competition concerns under Article 82 EC in relation to all Distrigas' gas supply contracts with industrial customers in Belgium. In response to specific requests, extensions to reply were granted initially until 30 June, then 7 July and subsequently until 1 September 2006. In the event, given the progress with the discussions on commitments (see below), it was considered that there was no need for Distrigas to reply to the SSO.

The SO, Preliminary Assessment and SSO are all preliminary assessments within the meaning of Article 9(1) of Regulation EC No 1/2003.

II. Submission of commitments and market test

On 11 July 2006, Distrigas submitted a proposal for commitments to the Commission responding to the competition concerns raised in the preliminary assessments. Following discussions with the relevant Commission services, a revised proposal for commitments was submitted on 1 March 2007.

On 5 April 2007, the Commission published a notice in the Official Journal pursuant to Article 27(4) of Regulation (EC) No 1/2003 summarizing the case and the commitments proposed by Distrigas and invited interested third parties to give their observations within one month. Following discussions with the relevant Commission services that took place once the observations from third parties had been assessed, Distrigas submitted a further amended version of the commitments on 12 June 2007. Distrigas confirmed that these commitments should be construed as commitments within the meaning of Article 9(1) of Regulation (EC) No 1/2003.

III. Access to File and to the market test

Access to file was granted initially to Distrigas and the industrial customer following the issue of the first SO, and subsequently to Distrigas following the SSO. Following the market test Distrigas was also provided with non-confidential versions of the responses received in response to the market test.

Conclusion

I consider that the rights of the Parties to be heard have been respected in the present case.

Brussels, 25 September 2007

(signed)

Karen WILLIAMS