

EN

***Case No COMP/M.6984 - EPH/ STREDOSLOVENSKA
ENERGETIKA***

Only the English text is available and authentic.

**REGULATION (EC) No 139/2004
MERGER PROCEDURE**

Article 6(1)(b) NON-OPPOSITION
Date: 19/11/2013

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Brussels, 20.11.2013
C(2013) 8285 final

In the published version of this decision, some information has been omitted pursuant to Article 17(2) of Council Regulation (EC) No 139/2004 concerning non-disclosure of business secrets and other confidential information. The omissions are shown thus [...]. Where possible the information omitted has been replaced by ranges of figures or a general description.

PUBLIC VERSION

MERGER PROCEDURE

To the notifying party:

Dear Sir/Madam,

**Subject: Case No COMP/M.6984 - EPH/ STREDOSLOVENSKA ENERGETIKA
Commission decision pursuant to Article 6(1)(b) of Council Regulation
No 139/2004¹**

(1) On 16.10.2013, the European Commission received notification of a proposed concentration pursuant to Article 4 of the Merger Regulation by which Energetický a Průmyslový Holding a.s ("EPH", Czech Republic) acquires within the meaning of Article 3(1)(b) of the Merger Regulation sole control over Stredoslovenská energetika, a.s. ("SSE", Slovak Republic) by way of a purchase of shares (EPH is designated hereinafter also as the 'notifying party'.)

1. THE PARTIES

(2) EPH is a Czech company active in the Czech Republic in the provision of district heating, in the provision of engineering and maintenance services for electrical installations, as well as in the gas and electricity sector. It is active in the Slovak Republic in the electricity sector and particularly in the gas sectors, where it operates as both Transmission System Operator (TSO) and Distribution System Operator (DSO) and has a strong position in the retail supply of gas.

¹ OJ L 24, 29.1.2004, p. 1 ('the Merger Regulation'). With effect from 1 December 2009, the Treaty on the Functioning of the European Union ('TFEU') has introduced certain changes, such as the replacement of 'Community' by 'Union' and 'common market' by 'internal market'. The terminology of the TFEU will be used throughout this decision.

- (3) SSE is a Slovak company active in the Slovak Republic in the electricity sector, as one of three DSOs, in the retail supply of electricity and (more marginally) in the generation and wholesale supply of electricity. Furthermore, it is also active in the provision of engineering and maintenance services for electrical installations. Also, it has some minor activities in the retail supply of gas in Slovakia. SSE is also engaged to a small extent in the retail supply of electricity in the Czech Republic.

2. THE CONCENTRATION

- (4) The transaction consists in EPH acquiring 49% of SSE's share capital, currently owned by E.D.F International ("EDF"). The remaining 51% of SSE's share capital will continue to be owned by the Slovak State through the National Property Fund ("NPF").
- (5) The notifying party submits that post transaction EPH will solely control the Target. In that regard, the notifying party points out that, according to the Shareholder Agreement, EPH will nominate 3 of the 5 members of the Board of Directors of SSE (including its Chairman), while NPF will nominate the remaining 2 members (including its Vice Chairman).
- (6) The Board of Directors appoints all senior executives of SSE by simple majority of votes and approves the annual budgets and the annual business plan by simple majority of votes.
- (7) Investment decisions require a special majority of 4 members of the Board of Directors if they exceed EUR [...] million for core investments (such as investments in the distribution, supply, purchase and sale of electricity construction-lines infrastructure engineering and metrology business) and EUR [...] for non-core investments.
- (8) According to EPH, in the last 5 years SSE has made only [...] investments above EUR [...] in non-core business areas (i.e. [...]) and has not made any investments above EUR [...] million in its core business areas.
- (9) In view of the above, the Commission concludes that EPH will exercise sole control over SSE. The proposed transaction therefore constitutes a concentration within the meaning of Article 3(1)(b) of the Merger Regulation.

3. EU DIMENSION

- (10) The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 000 million (EPH: EUR 10 741 million; SSE: EUR 781 million)². Each of them has an EU-wide turnover in excess of EUR 250 million (EPH: EUR [...] million; SSE EUR [...] million), but they do not achieve more than two-thirds of their aggregate EU-wide turnover within one and the same Member State. The notified operation therefore has an EU dimension.

² Turnover calculated in accordance with Article 5 of the Merger Regulation.

4. COMPETITIVE ASSESSMENT

- (11) The proposed transaction is mainly concerned with the gas and electricity sectors in Slovakia.
- (12) EPH's main activities in Slovakia focus on the gas sector: through its subsidiary Slovenský Plynárenský Priemysel a.s. ("SPP") , it is the sole TSO and DSO and controls all the storage facilities; in addition, it has a strong position in the markets for wholesale and retail supply of gas and minor activities in the retail supply of electricity. It is active in the engineering and maintenance of electrical installations both in the Czech Republic and Slovakia. In the Czech Republic, it is active on the wholesale and retail market for electricity.
- (13) SSE is one of the three electricity DSOs in Slovakia, where it also has a strong position in the markets for the retail supply of electricity, some activities in the engineering and maintenance of electrical installations and is marginally active since 2012 in the gas retail market. In addition it has minor activities on the electricity market in Czech Republic.

4.1. Relevant Product and Geographic Markets

- (14) Taking into account the Parties' activities, the transaction concerns the markets described below.

4.1.1. Electricity

4.1.1.1. Generation and wholesale supply of electricity

- (15) The Commission has previously taken the view that a separate product market exists encompassing both generation and upstream wholesale supply of electricity³. This market comprises electricity generated in power stations, traded on the wholesale market (through bilateral agreements, regulated market places or power exchanges) as well as electricity physically imported *via* inter-connectors. As to the relevant geographic market, the Commission generally considers it to be national in scope⁴.
- (16) The notifying party submits that the markets for the generation and wholesale supply of electricity are national in scope, thus covering Slovakia and Czech Republic separately. However, since the transaction does not raise any competition concerns with regard to this market, the market definition can be left open.

4.1.1.2. Distribution of Electricity

- (17) The Commission has previously established that a separate relevant product market exists for the distribution of electricity, encompassing the operation and

³ COMP/M.5979 KGHM / Tauron Wytwarzanie / JV; COMP/M.6540 Dong Energy Borkumriffgrund I Holdco / Boston Holding / Borkum Riffgrund I Offshore Windpark; COMP/M.6225 Molaris / Commerz Real / RWE / Amprion.

⁴ COMP/M.5979 KGHM / Tauron Wytwarzanie / JV; COMP/M.6540 Dong Energy Borkumriffgrund I Holdco / Boston Holding / Borkum Riffgrund I Offshore Windpark; COMP/M.6225 Molaris / Commerz Real / RWE / Amprion; COMP/M.5519 E.on / Electrabel Acquired Assets.

management of lower voltage grids by DSOs. The geographic scope of this market has been consistently held to be limited to the distribution grid at hand⁵.

4.1.1.3. Retail Supply of Electricity

- (18) In the past, the Commission has identified two different product markets for retail supply of electricity namely: (i) the market for retail supply of electricity to large industrial and commercial customers that are connected to the high and medium voltage grid; (ii) the market for retail supply of electricity to household and smaller industrial and commercial customers that are connected to the low voltage grid⁶. The Commission has generally defined the markets for retail supply of electricity as being national in scope⁷.
- (19) The notifying party has submitted information, covering Slovakia and the Czech Republic separately, with regard to the market for retail supply of electricity to (i) large industrial, (ii) smaller industrial and commercial customers, (iii) households. However, since the transaction does not raise any competition concerns with regard to this market, irrespective of the precise geographic and product market definition adopted, the market definition can be left open.

4.1.1.4. Engineering and Maintenance of Electrical Installations

- (20) In the past, the Commission has identified a market for the provision of specialised electrical engineering services, e.g. the provision of electrical power line construction and maintenance services to TSOs. A further sub-segmentation by types of installation has also been made: (i) electromechanical systems, (ii) electrical installation, (iii) maintenance and management of electromechanical systems and electrical installations. The Commission has also considered high- and medium-voltage electricity networks as possible distinct relevant product markets. In that regard, electricity power lines were considered to constitute a separate sub-segment within electrical installations⁸. As regards the Czech Republic, a separate sub-segment for electrical engineering for power lines has been considered, potentially encompassing both installation and maintenance services⁹. With regard to the geographic scope of the market, it is generally taken to be at least national in scope¹⁰. As regards power lines, the market has in the past been found to be likely national in respect of the Czech Republic¹¹.

⁵ COMP/M.5827 Elia / IFM / 50Hertz; COMP/M.5512 Electrabel / E.on; COMP/M.5467 RWE / Essent; COMP/M.3696 E.ON/MOL; COMP/M.3440 EDP / ENI / GDP.

⁶ COMP/M.5979 KGHM / Tauron Wytwarzanie / JV; COMP/M.6225 – Molaris/Commerz Real/RWE/Amprion; COMP/M.5827 – Elia/IFM/50Hertz; COMP/M.5467 – RWE/Essent.

⁷ COMP/M.6225 – Molaris/Commerz Real/RWE/Amprion; COMP/M.5827 – Elia/IFM/50Hertz; COMP/M.5467 – RWE/Essent; COMP/M.5512 Electrabel / E.on; COMP/M.5224 EDF / British Energy; COMP/M.4180 Gaz de France / Suez; COMP/M.3696 E.ON / MOL.

⁸ COMP/M.6623 Vinci / EVT Business; M.5701 Vinci / Cegelec.

⁹ COMP/M.6623 Vinci / EVT Business.

¹⁰ COMP/M.6623 Vinci / EVT Business; M.5701 Vinci / Cegelec.

¹¹ COMP/M.6623 Vinci / EVT Business; M.5701 Vinci / Cegelec.

4.1.2. Gas

4.1.2.1. Downstream Wholesale Supply of Gas

- (21) In previous Commission precedents, the market for downstream wholesale supply of gas¹² (comprising the activity whereby wholesalers procure gas from producers for resale to other wholesalers or downstream distributors) has been considered a separate market from the market for the upstream wholesale supply of gas¹³ (comprising the development, production and upstream supply of gas to large importers/wholesalers). As to the geographic scope, the market for the downstream wholesale supply of gas is generally delineated along existing (regional) grid areas¹⁴. More recently, the Commission has also considered a 'market area' as well as a national delineation¹⁵.
- (22) The notifying party argues that: (i) the relevant geographic market for the wholesale supply of gas is wider than national and includes neighbouring countries, such as the Czech Republic, Austria and Germany; (ii) it is not reasonable to apply a distinction between an upstream market (i.e. the import level at which e.g. Gazprom operates), and a downstream market for wholesale supply of gas in Slovakia (i.e. the level at which e.g. SPP operates).
- (23) However, the market investigation has confirmed the Commission's approach to make a distinction between the upstream and downstream wholesale supply of gas. As regards the geographic scope, the market investigation suggests that the market is at least national, possibly wider¹⁶. However, the exact geographic market definition can be left open.

4.1.2.2. Storage of gas

- (24) The Commission has consistently defined gas storage as constituting a separate relevant product market¹⁷. At the same time, the Commission has considered distinguishing between so-called "pore" and "cavern" storage facilities as well as between storage facilities that are suited for H-gas on the one hand and for L-gas on the other¹⁸. As to the geographic scope, the Commission has previously delineated national and regional¹⁹ product markets, whilst keeping reasonable account of a potential future broadening of the relevant geographic market in line with a further liberalisation of the European gas markets²⁰.

¹² COMP/39.315 – ENI.

¹³ COMP/M.6801 Rosneft / TNK-BP; COMP/M.5585 Centrica / Venture Production; COMP/M.4545 Statoil / Hydro.

¹⁴ COMP/M.5467 RWE Essent; COMP/M.5220 ENI / DISTRIGAZ.

¹⁵ COMP/M. 5802 RWE Energy / Mitgas.

¹⁶ Two of the respondents argued for a national market, while one respondent described the market as Slovakia and neighbouring countries and another as EEA-wide.

¹⁷ COMP/M.5549 EDF / Segebel; COMP/M.3696 E.ON / MOL; COMP/M.3410 Total / Gaz de France.

¹⁸ COMP/M.5467 RWE Essent; COMP/M.3410 Total / Gaz de France.

¹⁹ COMP/M.5467 RWE Essent.

²⁰ COMP/M.3696 E.ON/MOL.

4.1.2.3. Transmission of Gas

- (25) On the market for transmission (via high pressure systems) of gas, TSOs offer physical gas transportation services to gas wholesale suppliers that aim to resell their gas either to other gas wholesalers, to distributors, or to large industrial customers that are directly connected to the gas transmission network²¹. The Commission has consistently considered gas networks as natural monopolies²². As to the geographic scope, the market is generally taken to be national²³. However, the region covered by the physical infrastructure grid constitutes the narrowest possible delineation of the geographic market²⁴.

4.1.2.4. Distribution of Gas

- (26) On the market for distribution (via low pressure systems) of gas, DSOs offer gas transport services to distributors²⁵. Previous Commission decisions define this product market as encompassing the distribution of natural gas through a medium/low pressure pipeline network to final customers.²⁶ As to the geographic scope, the market can be either taken to be national or local depending on the national regulatory framework of the Member State concerned²⁷. The region covered by the physical infrastructure grid in fact constitutes the narrowest possible delineation of the geographic market²⁸.

4.1.2.5. Retail Supply of Gas

- (27) The Commission has previously segmented this market into supply of gas to: (i) gas-powered electricity plants; (ii) large industrial customers; (iii) small industrial customers and (iv) household customers²⁹. The Commission has generally held that the geographic markets for gas supply were national³⁰ in scope, whilst also considering a regional scope³¹. As regards household customers only, the Commission generally also considered regional markets.³²

²¹ COMP/39.316 – Gaz de France.

²² COMP/M.3696 E.ON/MOL.

²³ COMP/M.3696 E.ON / MOL.

²⁴ COMP/M.3696 E.ON/MOL.

²⁵ COMP/39.402 – RWE Gas Foreclosure.

²⁶ COMP/M.6302 F2i / AXA Funds / G6 Rete Gas; COMP/M.3696 E.ON/MOL; COMP/M.4180 Gaz de France / Suez; COMP/M.6068 ENI / ACEGASAPS/ JV.

²⁷ COMP/M.6068 ENI / ACEGASAPS/ JV; COMP/M.3696 E.ON/MOL.

²⁸ COMP/M.3696 E.ON/MOL; COMP/M.5183 Centrex / ZMB / Enia / JV.

²⁹ COMP/M.4180 Gaz de France / Suez; COMP/M. 3868 Dong/Elsam/Energi; COMP/M. 3440 EDP/ENI/GDP; COMP/M.5740 Gazprom/ A2A / JV.

³⁰ COMP/M.6068 ENI/ ACEGASAPS/ JV; COMP/M.5740 Gazprom / A2A / JV; COMP/M.5496 Vattenfall / Nuon Energy; COMP/M.4672 E.on / Endesa Europa / Viesgo; COMP/M. 4110 EON / Endesa; COMP/M.3230 Statoil / BP / Sonatrach / In Salah JV; COMP/M.3007 E.on / TXU Europe Group.

³¹ COMP/M.5467 RWE Essent; COMP/M.4890 Arcelor / Ferngas.

³² COMP/M.6068 ENI/ ACEGASAPS/ JV; COMP/M.4180 Gaz de France / Suez.

- (28) The notifying party has submitted information concerning the markets for retail to (i) large industrial customers³³ (ii) small industrial customers and (iii) household customers.
- (29) The respondents to the market investigation have largely confirmed that the market can be segmented on the basis of the type of customer. As regards the geographic scope, the market investigation confirmed that the market is at least national.

4.2. Competitive Assessment

- (30) The present transaction gives rise to the horizontally and vertically affected markets, as discussed below.

4.2.1. Horizontally affected markets

4.2.1.1. Retail Supply of Electricity in Slovakia

- (31) Taking into account the different sub-markets within the market for the retail supply of electricity: (i) on the market for retail supply to large industrial customers the Target has a share of [20-30]% and EPH a share of [0-5]%, thus the combined market share would amount to [20-30]%; (ii) on the market for retail supply to small industrial customers, the Target has a share of [20-30]% and EPH has a market of [0-5]%, thus the combined market share would amount to [20-30]%; (iii) on the market for retail supply to domestic customers, the Target has a share of [30-40]% and EPH has a share of [0-5]%, thus the combined market share would amount to [30-40]%.
- (32) On all these markets the increments brought about by the transaction are very small or even negligible. In addition, following the liberalisation of the energy supply market³⁴, other strong competitors have reached significant position in the market³⁵. Consequently, the transaction is unlikely to raise competition concerns in the markets for the retail supply of electricity in Slovakia.

4.2.1.2. Retail Supply of Gas in Slovakia

- (33) Taking into account the different sub-markets within the market for the retail supply of gas: (i) on the market for retail supply to large industrial customers EPH (through SPP) has a pre-merger market share of [50-60]% and the Target has a market share of [0-5]%, thus the combined market share amounts to [50-60]%; (ii) on the market for retail supply to small industrial customers, EPH has a share of [80-90]% and the Target has a share of [0-5]%, thus the combined market share amounts to [80-90]%; (iii) on the market for retail supply to domestic customers, EPH has a share of [80-90]% and the Target has a market share of [0-5]%, thus the combined market share amounts to [80-90]%.

³³ This also includes retail to gas-powered electricity production facilities, since it exceeds 60 000 m³ as annual consumption.

³⁴ The energy market in Slovakia has been liberalized in 2005 for industrial customers and in 2007 for domestic customers.

³⁵ Depending on the different sub-markets, in 2012 ZSE Energia had shares between 35-45%, Východoslovenská Energetika between 12-25%, Energetické Centrum, Magna E.A. and CEZ between 0-10%.

- (34) On all these markets, notwithstanding the very strong or dominant position of EPH (through SPP), the increments brought about by the transaction are negligible. In addition, since the liberalisation the market has been dynamic, with a significant switching rate³⁶, new competitors entering the market³⁷ and a significant decrease in EPH's market position³⁸.
- (35) At the same time, the Target, since it entered the market in 2012, has been offering a combined portfolio³⁹ of gas and electricity on competitive terms, and claims to give 8-15% rebates⁴⁰ compared to gas prices from the dominant supplier (i.e. EPH). In addition, the Parties' projections indicate that the Target's market shares are expected to increase over the next 4 years (i) on the market for retail supply to large industrial customers from [0-5]% in 2013 to [0-5]% in 2017, (ii) on the market for retail supply to small industrial customers from [0-5]% in 2013 to [5-10]% in 2017, (iii) on the market for retail supply to domestic customers from [0-5]% in 2013 to [0-5]% in 2017. These elements may be a basis for considering the Target as a maverick and that the acquisition by EPH could be seen as a way to eliminate an emerging competitor.
- (36) However, the market investigation has revealed that the target is not a particularly aggressive player in terms of pricing behaviour in any of the retail markets. Moreover, the market investigation indicates that there are other competitors in the market who would be able to jointly offer gas and electricity on the retail market. Also, the respondents have indicated that it is relatively easy to switch supplier in the Slovak markets for the retail supply of gas.
- (37) Consequently, the transaction is unlikely to raise competition concerns in the markets for the retail supply of gas in Slovakia.

4.2.2. *Vertically affected markets*

4.2.2.1. Distribution of electricity and retail supply of electricity in Slovakia

- (38) The Target controls one of the three DSOs in Slovakia, covering the regions of Žilina, Banská Bystrica and in a part of the Trenčín Region, where it delivers and distributes [30-40]% of the electricity distributed in Slovakia⁴¹. In the same region, EPH is engaged in the retail supply of electricity with the market shares, however, below [0-5]% in 2012 for all the sub-markets considered.

³⁶ According to 2013 Report issued by the Slovak Regulatory Office for Network Industries, in the domestic segment in 2012 the number of switches of gas suppliers increased six times, compared to 2011. A possibility of switching was used by 9.25% of all households. (see http://www.urso.gov.sk/sites/default/files/NarodnaSprava2013_EN.pdf)

³⁷ In 2012, on the market for the retail supply to large industrial customers RWE and Shell had share of [20-30]% and [5-10]% respectively, on the market for the retail supply to small industrial customers RWE had a share of [10-20]%, on the market for the retail supply to domestic customers RWE, CEZ and Energeticke Centrum had share of [0-5]%, [0-5]% and [0-5]% respectively.

³⁸ For example, in the market for the retail supply of gas to large industrial customers, EPH's market share decreased from [70-80]% in 2010 to [50-60]% in 2012.

³⁹ Dual offering of gas and electricity is however becoming standard in the market.

⁴⁰ Statement made by Mr. Szilárd Mangult, Director of SSE's Commercial and Services Division, in an interview to The Spectator SK on 8 April 2013.

⁴¹ The other two DSOs, ZSE and VSE, manage volumes corresponding to [40-50]% and [20-30]% respectively.

- (39) This vertical relationship does not raise competition concerns. It existed prior to the transaction, and, in addition, the increment for the merged entity on the market for retail supply of electricity is marginal (between [0-5]% and [0-5]% depending on the different sub-markets). Thus, it can be concluded that the pre-existing ability and incentive of the DSO to engage in any foreclosure strategy will not significantly change post transaction.

4.2.2.2. Engineering services and distribution of electricity in Slovakia

- (40) In Slovakia, EPH, through its subsidiary EPI, provides power-lines infrastructure engineering services to electricity DSOs, with a market share of [0-5]% on the market of engineering services for electromechanical/electrical systems, [0-5]% on the market of engineering services for electromechanical / electrical installations, and [0-5]% on the market of engineering services for electrical substations to third parties⁴².

- (41) Even though at present the Target is not a customer of EPI, a potential vertical relationship could arise as a result of the transaction with EPI providing electricity engineering installation and maintenance services to the Target. However, there are no major concerns as to the possibility that this vertical relationship would lead to any foreclosure due to the limited activities of EPI on the market.

4.2.2.3. Generation and wholesale supply of electricity and retail supply of electricity in Slovakia

- (42) Both EPH and the Target have a market share below [0-5]% in the market for the generation and wholesale supply of electricity in Slovakia. The Target has a market share of [30-40]% in the retail supply of electricity to domestic customers in Slovakia (the increment post transaction would be below [0-5]%).

- (43) However, the vertical relationship pre-existed prior to the transaction. In addition, the change in the position of the merged entity on the upstream market is negligible and unlikely to confer an ability and incentive to engage in foreclosure strategies. Consequently, no competition concern is likely to arise from this vertical relationship.

4.2.2.4. Wholesale supply of gas and retail supply of gas in Slovakia

- (44) On the upstream wholesale gas supply market in Slovakia EPH, through SPP, acts as a purchaser of gas from Gazprom. On the downstream market for the wholesale supply of gas in Slovakia EPH, through SPP, is only marginally active as a reseller to retailers⁴³ since most of the gas purchased upstream from Gazprom is used to supply its retail customers. As to the Target, the notifying party submits that all of

⁴² In each of these three markets the Target is active, through its subsidiary EEM, with shares of [0-5]%, <[0-5]% and <[5-10]% respectively.

⁴³ Out of [...] million m³ supplied from Gazprom in 2012, EPH has supplied [...] million m³ of gas to retail customers in Slovakia and sold at the hub out of Slovakia approx. [0-5]% of gas imported.

its gas supply purchases on the retail market are concluded on the wholesale spot or forward market⁴⁴.

- (45) EPH's position on the market for retail supply of gas, through SPP, ranges between [50-60]% and [80-90]% depending of the different customer segments while the Target's market share is in any case below [0-5]%.
- (46) The market investigation has confirmed that EPH is only marginally active in the downstream wholesale market. Consequently, the transaction does not give rise to vertical concerns in this regard.

4.2.2.5. Retail supply of gas and generation and wholesale supply of electricity in Slovakia

- (47) A potential vertical relationship could arise between EPH supplying gas on the retail market and the Target generating electricity, among others, through a gas-fired power plant. However, the Target itself is active on the market for retail supply of gas. Its market share in the generation of electricity is less than [0-5]% and its gas-fired power plant has a capacity of only 50MW.⁴⁵
- (48) Therefore, no competition concern is likely to arise from this potential vertical relationship.

4.2.2.6. Transmission, storage and distribution of gas and retail supply of gas in Slovakia

- (49) In Slovakia EPH controls, through its subsidiary SPP, 100% of the gas transmission and distribution networks as well as the storage facilities in the country. Both EPH, through SPP, and the Target are active on the retail gas market, the latter with market shares below [0-5]% with respect with all segments of customers.
- (50) A vertical relationship may exist between EPH's activities in the transmission, storage and distribution of gas and Target's activities in the retail supply of gas. However, it is unlikely to lead to competition concerns. The vertical relationship pre-exists the transaction, and in addition, the small increment in the merged entity's position is not such as to significantly affect EPH's ability to engage in any foreclosure strategy.

⁴⁴ The notifying party submits that the Target purchases gas on the spot or forward market (e.g. at the gas hub in Baumgarten). According to the notifying party, competitors are able to import gas as there is sufficient capacity in the Slovak transmission network.

⁴⁵ This power plant is located in Panické Dravce- The target operates this facility solely for the purpose of providing ancillary services to its subsidiary, the operator of one of the Slovak electricity transmission networks.

5. CONCLUSION

- (51) For the above reasons, the European Commission has decided not to oppose the notified operation and to declare it compatible with the internal market and with the EEA Agreement. This decision is adopted in application of Article 6(1)(b) of the Merger Regulation.

*For the Commission
(Signed)*

*Joaquín ALMUNIA
Vice-President*