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Commitments approved to increase access to electricity for PPC's competitors approved

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On 10 September 2021, the European Commission (the Commission) published its decision on Case No. AT.38700. This made legally binding under EU antitrust law the final commitments submitted by the Hellenic Republic (HR) to allow the competitors of Public Power Corporation (PPC), the Greek state-owned electricity incumbent, to purchase more electricity on a longer-term basis.

This decision constitutes the final step in the EU antitrust procedure, which was launched with a decision of the Commission issued in March 2008, concluding that the HR had violated competition rules by granting PPC privileged, quasi-exclusive access rights to lignite, denying such access to PPC's competitors and, thus, allowing PPC to maintain its dominant position in the electricity wholesale market. At the same time, the HR was obliged to implement appropriate remedial measures, a fact that was ultimately upheld by the General Court following a lengthy litigation. The final, non-confidential text of the Commission decision is expected to be made publicly available.

In the context of the final measures it submitted, the HR committed to ensure that a share of electricity generation, calculated on the basis of PPC's lignite-fired plants' generation, is released and sold to competitors, in accordance with the proposed remedies. The first proposed remedy sets out that PPC will sell – on a quarterly basis – forward electricity products on the European Energy Exchange and/or the Hellenic Energy Exchange. This allows buyers to obtain electricity at a stable price during each quarter of reference, while also enhancing their ability to source wholesale electricity on the forward market and hedge against price volatility. PPC will further obtain a net seller position on the above-mentioned organised exchanges, in the sense that its sales of the forward electricity products in question shall exceed its purchases by a certain volume, ensuring that sufficient volumes of wholesale electricity (calculated as a share of PPC's lignite-fired generation) are made available to its competitors.

According to the information made available, the proposed PPC obligations in terms of the timing of the sales and deliveries will give its competitors the ability to hedge against price volatility for a sufficiently long period in advance. The remedial measures will remain in force for a specified time period – namely, until all existing lignite-fired generation plants are commercially decommissioned, according to the relevant plan of the HR, and also in line with the environmental objectives of Greece and the European Union. The decommissioning is currently planned to take place by 2023; however, with regard to the commitments and related PPC obligations, these will cease by 31 December 2024.

A monitoring trustee, independent from the HR and any competent involved authorities, will also be appointed by the HR and approved by the Commission. The monitoring trustee will:

- monitor the HR's compliance with the proposed and approved commitments;
- draft and submit relevant reports to the Commission and report any non-compliance incidents;
- propose to the HR any measures it considers necessary to ensure compliance with the commitments; and
- act as a contact point for third-party requests.

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