24 January 2019

Subject: Greece and the forced sale of lignite assets

Dear Commissioner Vestager,

The Greek government is organising the sale of lignite assets in implementation of Decision of 5 March 2008 of the European Commission (the "**2008 Antitrust Decision**") in the Greek lignite case[1], which seek to end PPC's exclusive lignite rights. The sale has also been integrated in the 2017 Supplementary Memorandum of Understanding. However, ten years after the 2008 Antitrust Decision was taken, the market circumstances have dramatically changed. Although the European Commission has reflected some of those changes in the recent Decision of 17 March 2018 in the Greek lignite case (the **"2018 Commitments Decision"**)[2], rising carbon prices and the recently concluded Clean Energy Package call for a fresh re-consideration of the necessity to proceed with the divestment.

Hindering fair market access for alternatives to lignite

Instead of simply ensuring 'fair access to the lignite market', the Greek electricity market must allow fair and nondiscriminatory access for all competitors to PPC. This is particularly true for those using cleaner alternatives to fossil fuels, such as renewables, storage, and demand response services in order to achieve the decarbonisation of energy systems. Likewise, any measures adopted should be in line with the fundamental EU Treaty principles of sustainable development, high level of protection of the environment and human health,[3] these principles being acknowledged regularly in the Greek lignite case decisions. They must also support the realization of the internal energy market.

The sale of the lignite assets moves in the opposite direction. In the 2018 Commitments Decision, the European Commission found that by excluding the exploitation of new mines and the construction of new power plants, the Greek government would respect its environmental protection and decarbonisation obligations. These findings have to be re-examined.

Firstly, the sale promises the construction of a new carbon intensive and polluting lignite plant, Meliti II. This plant holds no permit that would allow its operation or construction; nor has it been included in the latest adequacy assessment of the Greek TSO. Secondly, the lignite sale potentially extends the exploitation of the existing lignite mines by an additional 20 to 40 years.[4]

---

[1] Decision of 5 March 2008 in Case COMP/B-1/38.700.

[2] Decision of 17 April 2018

[3] Articles 3.3, 3.5, Treaty of the European Union; Articles 9,11 Treaty on the Functioning of the European Union,

[4] Hellenic Republic Final Commitment text, 15.02.2018, pages 23 and 32 available at http://ec.europa.eu/competition/antitrust/cases/dec_docs/38700/38700_2055_3.pdf.

Clearly, the sale prolongs the lifetime of lignite in the Greek energy mix beyond 2050. This extension raises significant barriers to the use of competitive, cheaper, innovative, flexible and cleaner alternatives to the detriment of consumer welfare, environmental protection and economy decarbonisation.

The energy market is pushed to continue to rely on lignite not because this is necessary for the security of supply or the balancing of the market, nor as a result of effective competition and fair prices for consumers, but as the mere consequence of the lack of proper re-assessment and examination of the potential competitive advantages that an outdated decision confers on lignite. Failure to do so replaces the asymmetry between PPC and its competitors with an asymmetry and distortion of competition between lignite -fired generation and all other types of electricity generation. Eventually, the lignite sale creates more serious trouble for competition than the one it is supposed to remedy, that is to say access to PPC's exclusive lignite rights.

Busting the myth of 'cheap lignite'

Contrary to the findings of the 2008 Antitrust Decision, lignite is no longer the "cheapest source of power generation in Greece",[5] while predictions of the evolution of lignite-generated electricity costs are even gloomier. Lignite-based power production costs have dramatically increased due to the entry into force of stricter environmental rules and most importantly due to the escalating carbon prices. These trends are confirmed in the latest European Commission report on energy prices and costs in Europe.[6]

The same report finds that higher deployment of renewables, improvements in interconnections and integration in internal electricity have increased competition in energy markets, which subsequently led to the reduction of electricity prices. Consistent with this, competitive prices in the Greek electricity markets may be achieved by opening up competition to all sources of electricity and reducing lignite dependency, especially since Greek lignite is by far the lowest quality in Europe, and therefore is more vulnerable to competition with other electricity producing technologies.

The 2018 Commitments Decision does not refer to cheap lignite. Instead, it simply assumes that lignite assets are still viable and competitive. However, the divestment procedure has refuted this assumption and has revealed that the assets under sale run at a loss, and that lignite is no longer competitive.

---

[5] Recitals 86, 132.2, 188, 190, 228, 232, Decision of 5 March 2008 above note 1; European Commission press releases IP/08/386 , IP/09/1226, IP /11/34.

[6] COM(2019) 1 final, "Energy prices and costs in Europe", available at https://ec.europa.eu/info/news/new-data-and-analyses-building-energy-union-robust-way-2018-energy-prices-and-costs-report-europe-2019-jan-09_en

Using subsidies to make lignite competitive

Paradoxically, instead of discontinuing the sale, the Greek government is seeking to boost the value and viability of the assets by adopting unfair and anti-competitive measures. It has relieved lignite of a quasi-royalty-fee tax and it is planning to introduce a CO_2 levy burdening consumers with the cost of increased carbon prices against the spirit of ETS rules and the "polluter pays" principle. This tactic is also inconsistent with the obligation of the Greek government spelt out in the antitrust decisions to have the divestment procedure aligned with the EU environmental policies.

More alarmingly, the Greek government seems to have pre-notified to the European Commission a new capacity mechanism to subsidise lignite production. While the details of this scheme are not publically available, the proposed mechanism apparently serves the purpose of artificially inflating the competitiveness of the divested assets and therefore it creates asymmetries in competition between lignite and other cheaper and cleaner alternatives.

Diluting the Clean Energy Package rules

In summary, the sale of the lignite assets is not in line with the competition principles enshrined in the Clean Energy Package. The prolongation of the significant presence of lignite in the Greek energy mix through the imposed sale impedes the transition to a decarbonized, decentralized and competitive energy system, and it delays the reform of the Greek energy market. The negative impact is already felt in the draft National Energy and Climate Plan, which sustains a portion of 17% lignite in the 2030 energy mix in order to accommodate the obsolete sale obligation. The impact of the sale on Greece's future energy and climate policy is analysed in our letter to Vice President Šefčovič and Commissioner Cañete.

To avoid all potential consequences that will harm competition, consumers and the environment, we urge the European Commission to:

1. Abstain from adopting any new decision until it has decided on the lawfulness and consistency of the proposed subsidy measures with competition and State aid law;
2. Re-assess the 2018 Commitments Decision in the light of the Clean Energy Package;
3. Prevent the distortion of the market by the sale and ensure fair access for more competitive and cleaner alternatives to lignite; and
4. Play an active role in removing the condition to sell uncompetitive and polluting lignite assets from the Supplemental Memorandum of Understanding.

We would welcome the opportunity to discuss these concerns more during a meeting. As mentioned, we are sending a letter on the forced sale to Vice President Šefčovič and Commissioner Cañete, which we are also forwarding to you, for your information.

Yours sincerely,

Mahi Sideridou
Managing Director
Europe Beyond Coal
mahi@beyond-coal.eu
www.beyond-coal.eu