

Mergers: Commission approves proposed acquisition of Nuon Energy by Vattenfall, subject to conditions

The European Commission has cleared under the EU Merger Regulation the proposed acquisition of N. V. Nuon Energy of the Netherlands by Vattenfall AB of Sweden. Both companies are active in the energy sector. The Commission's decision is conditional upon the divestment of part of Nuon Energy's German retail operations. Vattenfall agreed to this divestment to remedy competition concerns the Commission had in relation to retail supplies of electricity to small commercial and domestic customers in Hamburg and Berlin. In view of the remedies proposed, the Commission concluded that the operation would not significantly impede effective competition in the European Economic Area (EEA) or any substantial part of it.

Competition Commissioner Neelie Kroes said: "I am satisfied that the commitments given are sufficient to ensure that after the proposed takeover fledgling competition could continue to develop further on the German retail electricity market".

Vattenfall, ultimately controlled by the Swedish State, has different activities along the entire energy chain mainly in Sweden, Germany, Finland, France, Denmark and Poland. On a very small scale it also operates in the gas sector. Nuon Energy is also active across the entire energy chain, in the production and supply of electricity and gas, plus heating and cooling services. It is mainly present in The Netherlands but also has activities in Belgium and Germany.

The Commission's investigation revealed that the proposed transaction would not raise competition concerns on most relevant markets due to the minor horizontal overlaps between the parties' activities. The only exceptions were with respect to the two firms' retail operations in Germany, in particular the supply of electricity to small commercial and domestic customers in Berlin and Hamburg. There the Commission found that the proposed transaction, as initially notified, would have raised competition concerns, with Vattenfall being the incumbent supplier and Nuon the strongest new entrant in those cities. Consequently the proposed transaction would have further strengthened the position of Vattenfall, reversing a substantial part of the gains of market liberalisation.

To resolve these competition concerns, Vattenfall proposed to divest Nuon Deutschland GmbH, Nuon Energy's electricity retail business in Germany. Vattenfall would be permitted to carve out customer contracts outside Berlin and Hamburg and two subsidiaries not related to the retail business.

The Commission's investigation concluded that the divested business would be viable and that the commitments would resolve the identified competition concerns.

More information on the case will be available at:

http://ec.europa.eu/competition/mergers/cases/index/m109.html#m_5496