



Competition Authority Clears the Acquisition of NIE by ESB with commitments

The Competition Authority has today cleared the proposed acquisition whereby Electricity Supply Board (ESB) would acquire, amongst other things, sole control of Northern Ireland Electricity plc and its subsidiaries (NIE). The transaction was notified by the parties under the Competition Act 2002 on 5 August 2010.

This follows an extensive preliminary investigation (Phase 1) by the Competition Authority that involved discussions with various government departments and regulators in the State and Northern Ireland: the Office of Fair Trading in the United Kingdom, the Commission for Energy Regulation, the Northern Ireland Authority for Utility Regulation, the Department of Communications, Energy and Natural Resources. Also, the Authority received information and views from a number of companies active in the electricity sector in the State and/or Northern Ireland.

The Competition Authority came to the view that the proposed transaction raised a concern that post-acquisition, ESB would be in a position to acquire and use commercially sensitive information that would provide ESB with the ability and incentive to prevent, restrict or distort competition in the generation and supply of electricity on the island of Ireland. At present, NIE receives commercially sensitive information in the discharge of its functions in terms of planning, developing and maintaining the electricity transmission and distribution systems in Northern Ireland. The concern is that such information if passed from NIE to ESB would give ESB an unfair advantage in its generation business over competitors.

The Competition Authority entered into discussions with ESB to identify measures to address this concern. ESB submitted a proposal to the Authority. In essence, ESB undertakes that it shall not request from NIE and shall ensure that NIE does not give to ESB commercially sensitive information which NIE receives in the discharge of NIE's functions relating to planning, developing and maintaining the electricity transmission and distribution systems in Northern Ireland.

According to Dr. Stanley Wong, Member and Director of the Mergers Division, the undertakings given by ESB in its proposal "are appropriate and effective to address the Competition Authority's competition concerns". The ESB proposal forms part of the basis for the Competition Authority's decision and is therefore binding on ESB.

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The Competition Authority

An tÚdarás Iomaíochta

The companies have been informed of the decision that the proposed acquisition will not lead to a substantial lessening of competition in any markets for goods or services in the State. The Authority will publish a public version of the reasons for its determination on its website (www.tca.ie) no later than 24 December 2010 after allowing the parties the opportunity to request that confidential information is removed from the published version.

Notes

ESB is a corporation established and operated under statute and is active in the electricity sector in the State and internationally. ESB is majority owned by the Irish Government and is active at all levels of the electricity sector, namely: power generation, electricity transmission and distribution, wholesale and retail supply of electricity.

ESB is the licensed owner of the electricity transmission and distribution systems in the State.

NIE plc is a wholly-owned subsidiary of Viridian Group Limited, a privately owned energy business. NIE plc is the licensed owner of the electricity transmission and distribution systems in Northern Ireland.

As part of the proposed transaction, ESB will also acquire NIE Powerteam, Powerteam Electrical Services (UK) Limited and its subsidiary and Capital Pensions Management Limited.

Under section 20(3) of the Competition Act 2002, an undertaking involved in a merger or acquisition may submit to the Competition Authority proposals, which will become binding commitments once the Competition Authority takes the proposals into account and states in writing that the proposals form the basis or part of the basis of its determination.

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