Internal Information

European Commission's Investigation With ČEZ To End in Settlement

ČEZ, the leading energy corporation in the Czech Republic, decided to put a quick end to the investigation conducted by the European Commission since 2009 by means of settlement. As part of the settlement, ČEZ undertook to sell one of its coal power stations. The corporation may at its discretion choose which of the following power stations to sell: Počerady, Chvaletice, Tisovou together with Mělník 3, or Dětmarovice. Except for the Počerady (1000 MW) power plant, these are coal sources with an installed capacity of some 800 MW. Divesting a power station is consistent with ČEZ' strategy to operate just a limited number of upgraded coal power stations in the future.

Putting an end to an investigation by means of settlement is a common practice in European competition law. In such a case, the Commission accepts the commitments offered by the investigated entity and terminates the entire proceeding without further examining and determining whether the company actually has engaged in any illegal conduct. From the Commission's viewpoint, the settlement will sufficiently increase competition in the market, thus rendering any further investigation unnecessary.

All proceedings concerning competition law that the Commission initiated over the past 10 years and that pertained to energy corporations (such as RWE, E.ON, Gaz de France or ENI), were sooner or later terminated in this manner. A settlement does not mean that the companies did violate the competition law. Corporations usually opt for this solution if their commitments, accepted by the Commission as sufficient, are consistent with the company's long-term strategy and do not harm their commercial interests, while putting an end to a long costly proceeding that might still continue over several years.

The settlement agreement means a definitive end of the European Commission's investigation that started with a search in ČEZ' offices in 2009, and continued with the corporation's exoneration of most suspicions in 2011.

Investigation Developments

In November 2009, the Commission conducted a surprise inspection in the offices of ČEZ, a.s. and its subsidiary company of Severočeské doly, a.s. In their statement at that time, the Commission stated that the suspected monopolistic conduct might aim at excluding existing or potential competitors from the wholesale power market and increase the prices in the wholesale power market in the Czech Republic.

By presenting numerous evidence, ČEZ rebutted all major accusations voiced by the Commission.

Afterwards, in a proceeding initiated in July 2011, the Commission decided to investigate just a suspected blocking of the transmission capacity at the Výškov node by the planned construction of the Počerady steam-gas power plant, which was allegedly the cause why Mostecká uhelná's project for building a new coal power station was denied the necessary transmission capacity. From ČEZ' viewpoint, the suspicions are ungrounded since, when reserving the transmission capacities, the company always proceeded in accordance with the legislation in force, and the given project was duly approved as commercially viable and strategically important; today, the power station is about to be completed.

Settlement Terms and Further Steps by ČEZ

The settlement terms are satisfactory for both parties. The sale of some power stations is consistent with ČEZ' strategy to operate just upgraded power stations in the future. At the same time, for the European Commission it represents a desirable contribution to a greater competition in the market.

ČEZ may fulfill the settlement terms and conditions by, for example, completing the already launched project of selling the Počerady or the Chvaletice power station. This project is currently in the phase of pre-close due diligence conducted by potential investors. A similar process of examining bids submitted by potential investors is going to be started for other power plants too – either for Tisová and Mělník 3, or for Dětmarovice.

Under the settlement agreement, ČEZ will be bound to sell one of the aforementioned power stations. Nevertheless, this does not prevent the company from accepting more bids and selling multiple power plants if the bids are found to be commercially interesting. ČEZ expects that the sale will generate a better return on capital than operating the power station further as part of its energy source portfolio. At the same time, the freed capital funds will be available for ČEZ new strategic priorities, such as developing nuclear energy and renewable sources.

In its earlier adopted power generation source portfolio development strategy, ČEZ decided to invest heavily in the Czech Republic only in reconstructing and upgrading power stations located in coal mining areas, to which ČEZ can supply coal from its own mines, without being exposed to potential commercial disputes concerning coal supplies. This applies to the power stations in Ledvice, Tušimic, and Prunéřov. ČEZ has invested in these power stations to make them compliant with all relevant environmental standards (and to significantly improve their efficiency and reduce CO2 emissions compared to the existing levels) and to be able to operate them for some more decades.

ČEZ operates the remaining coal power stations in line with the applicable legislative requirements but does not intend to invest comparable amounts in them to change their technology parameters or service life significantly. ČEZ has planned to shut down these plants gradually depending on coal availability, the capital expenses required to meet future emission limits, current market situation, and alternative options for procuring heat supply in places where ČEZ' power stations are connected to the central heat supply system. For these reasons, power stations of this kind have a limited strategic value in ČEZ' portfolio. Nevertheless, for other market players these power plants may be of much greater importance as they represent duly maintained facilities that can usually be operated for another 10-15 years, situated in attractive locations with all the infrastructure required to operate a coal power station or, perhaps, use a different fuel (gas, biomass). As such, these power stations are assets that will allow market players to gain instantly (i.e., without going through the lengthy process of planning, seeking approvals, and building a new power plant) a position in the power generation market, while at the same time offering various possibilities how to develop the given sites in the future.