

Competition - Estonia

Energy Monopoly Subsidiary Accused of Abuse of Dominant Position

September 11 2008

On May 15 2008 the Competition Board issued a precept to AS Narva Elektriijaamad regarding abuse of its dominant position in the wholesale electricity market.

Narva Elektriijaamad is a 100% subsidiary of electricity market giant AS Eesti Energia, a 100% state-owned public limited company. Narva Elektriijaamad has a market share of over 90% in the Estonian electricity production market.

Two small undertakings engaged in the sale of electricity filed a complaint against Narva Elektriijaamad regarding the termination of a provision of a fixed supply of electricity. 'Fixed supply' under the Electricity Market Act is the sale of a fixed amount of electricity agreed upon in advance for a certain trading period, of which the balance provider is informed in advance. 'Open supply' is the sale of all the electricity needed by the market participant, or the sale of the amount of electricity needed for a certain trading period or the purchase from the market participant of surplus electricity during a certain trading period.

Narva Elektriijaamad and the two small undertakings argued over interpretations of the Electricity Market Act. Narva Elektriijaamad was of the opinion that its competitor, which provided an open supply of electricity to the two small electricity undertakings, was not eligible to do so. According to the agreements concluded with the two small electricity undertakings, it argued, they were obliged to buy open supply from Narva Elektriijaamad. As a result, Narva Elektriijaamad terminated the provision of a fixed supply of electricity to the two undertakings.

The Competition Board found that Narva Elektriijaamad had misinterpreted the Electricity Market Act. Termination of the provision of a fixed supply to market participants based on an argument that there were misunderstandings between the parties' interpretations of the Electricity Market Act and the agreement concluded was deemed an irrelevant and disproportionate measure employed by Narva Elektriijaamad to resolve the issue. The Competition Board stated that Narva Elektriijaamad had infringed Articles 16.4 and 16.6 of the Competition Act and had abused its dominant position by entering into an agreement subject to acceptance of supplementary obligations which had no connection with the subject of the agreement itself, and by unjustifiably refusing to sell goods.

As a final result of the administrative proceedings, the Competition Board issued a precept to Narva Elektriijaamad to restore the provision of a fixed supply of energy and not to make the provision of an open supply of electricity dependent on the provision of a fixed supply. Misdemeanour procedures have been commenced against Narva Elektriijaamad for abuse of its dominant position and therefore infringement of the Competition Act.

For further information on this topic please contact [Kaja Leiger](#) at [Luiga Mody Hääl Borenus](#) by telephone (+372 665 1888) or by fax (+372 665 1899) or by email (kaja.leiger@lmh.ee).

The materials contained on this website are for general information purposes only and are subject to the [disclaimer](#).

ILO is a premium online legal update service for major companies and law firms worldwide. In-house corporate counsel and other users of legal services, as well as law firm partners, qualify for a free subscription. Register at www.iloinfo.com.

Author

[Kaja Leiger](#)





Official Online Media Partner to the International Bar Association
An International Online Media Partner to the Association of Corporate Counsel
European Online Media Partner to the European Company Lawyers Association

© Copyright 1997-2009 Globe Business Publishing Ltd