

Polish Oil and Gas Company (PGNiG SA)
Head Office

Warsaw, 18 May 2017

PGNiG: The European Commission should fine Gazprom and create competitive conditions on the gas market

Polish Oil and Gas Company (PGNiG SA) presented its position on commitments submitted by Gazprom within the Commission's antitrust proceedings. The Polish company has indicated a long-standing violation of antitrust law by the Russian corporation and has proposed imposing a number of obligations on Gazprom.

– The violations committed by Gazprom have been long-lasting and serious. They have caused considerable damage to the gas market in Central Europe. This applies both to the competition in the gas market and to the financial losses incurred by the recipients of commodity. We would like to emphasize that Gazprom has not refrained from violating the competition law and, until this day, the company has not complied with its provisions – said Piotr Woźniak, President of the PGNiG SA Management Board.

PGNiG SA will submit its position to the European Commission by 19 May, 2017, as part of the so-called market test conducted by the EC with regards to antitrust proceedings against Gazprom.

PGNiG: the need to impose financial penalties on Gazprom

In its response to market test, PGNiG shares the position of the European Commission presented in the press release of the EC Directorate General for Competition of 22 April 2015¹ that Gazprom has infringed antitrust laws in Central and Eastern Europe by:

- partition of Central and Eastern European gas markets,
- excessive pricing policy towards customers,
- conditioning gas supplies upon maintaining or taking control over gas infrastructure by Gazprom.

PGNiG SA demands that the decision issued by the European Commission first and foremost lead to the successful conclusion of the aforementioned breaches and removal of their consequences. According to the Polish company, the circumstances of the case and Gazprom's attitude since 2004 require the European Commission to issue a decision pursuant to Art. 7 of Regulation 1/2003, imposing financial penalties and additional commitments on Gazprom, as indicated by earlier declarations of the European Commission².

¹ http://europa.eu/rapid/press-release_IP-15-4828_en.htm

² <http://www.reuters.com/article/us-eu-vestager-google-gazprom-idUSKCN0S315D20151009>

– This approach will make it possible to compensate for the losses caused by Gazprom's illegal practices. According to the provisions of the applicable law, the fine will be paid to the budget of the European Union. The affected companies will be given an opportunity to pursue their claims against Gazprom in Member States' courts. This will bring an immediate halt to Gazprom's illegal practices and will facilitate the introduction of competition on the gas markets in Poland and other Central and Eastern European countries – stressed President of the PGNiG SA Management Board.

PGNiG: the need to introduce preventive measures

PGNiG SA proposes to impose a number of commitments on Gazprom which will prevent the Russian company from violating antitrust rules in the future:

1. Granting Gazprom customers a one-time right to set a price formula in the contract. The formula would be related to prices in competitive European markets, and include a mechanism for verifying the price in an arbitration procedure. This will allow the liberalization of prices for consumers and will prevent Gazprom from over-inflating them.
2. Gazprom should change the "Take or Pay" clauses by lowering the current maximum level of mandatory gas deliveries in long-term contracts for Central and Eastern European customers to a maximum of 75%. The solution will restore competition between Western European energy companies which have signed flexible contracts with Gazprom and companies on which rigid conditions of long-term contracts have been imposed by Gazprom.
3. Divestment by Gazprom in selected companies which own transport and storage infrastructure in the EU. This solution should be specifically applied to infrastructure which allows to tie infrastructure issues with trade negotiations and maintaining exclusive control over gas supply routes to Central and Eastern Europe (e.g. OPAL and Yamal-Europe gas pipelines), as well as gas storage facilities (e.g. Katharina).
4. Obligating Gazprom to approve the introduction of network codes and bidirectional gas flows on all interconnectors between gas grids of the Central European Member States and the Energy Community. The instrument will eliminate the possibility of politically motivated reduction or suspension of gas supplies to Central and Eastern European countries.
5. The unconditional execution of all III Energy Package principles towards transmission infrastructure owned by EuRoPol Gaz (which is the owner of part of Yamal-Europe Pipeline in Poland), including with respect to the certification of independent system operator.

In addition, the European Commission should commit Gazprom to fully comply with the provisions of the III Energy Package for the Nord Stream 1 and 2. In particular, this should include ownership unbundling, the application of third-party access rules, as well as the implementation of network codes – the issues that the European Commission proposed to address in the Intergovernmental Agreement between the European Union and Russian Federation on Nord Stream 2.

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