

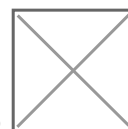
# 8 February 2012: Electricity and gas supply markets

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## **The *Autorité de la concurrence* clears – subject to conditions – the acquisition of Enerest by Electricité de Strasbourg (EDF Group)**

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**Electricité de Strasbourg**, a company owned 88.82% by **EDF**, is a local distribution company that supplies electricity under regulated tariffs to a major part of the département of Bas-Rhin.

**Enerest** is also a local distribution company which supplies natural gas under regulated tariffs in the Greater Strasbourg area.

Both companies also supply gas and electricity on the open market.

Before ruling on the acquisition of Enerest by Electricité de Strasbourg, the *Autorité* referred to a market test performed with the main players in the sector, in particular alternative electricity and gas suppliers.

**The *Autorité* observed that the projected acquisition raised serious concerns, in that it could impede effective competition on the open markets for the supply of electricity and gas to residential customers and small businesses**

The acquisition would enable Electricité de Strasbourg to hold the legal monopolies for the supply of electricity and gas at regulated tariffs simultaneously in its defined service areas. The company would be able to simultaneously offer gas and electricity supply contracts both at regulated tariffs

and via a competitive offer in the overlapping sectors of the parties' distribution areas (Greater Strasbourg).

The acquisition would therefore have enabled Electricité de Strasbourg to make offers incorporating both electricity and gas ("dual offers") which combine two regulated tariffs (for both energies), or a regulated tariff for one of the energies and an open-market price for the other.

The benefit accrued to Electricité de Strasbourg would have restricted competition in two ways:

- firstly, such offers cannot be replicated by alternative suppliers (who by definition cannot make offers based on regulated tariffs);
- secondly, the analysis of the transaction demonstrated that the possibility of making dual offers combining both energies (electricity and gas) under open-market conditions was an area of strategic development for alternative suppliers.

Furthermore, the acquisition would have enabled Electricité de Strasbourg to use the customer consumption information it holds as an incumbent supplier to make tailored offers to its customers, which its competitors could not do without significant additional marketing costs.

**The *Autorité* has therefore made its authorization conditional on a number of commitments designed to resolve these competition concerns:**

**• *Dual offers (electricity and gas)***

Electricité de Strasbourg commits not to make offers for two energies which include at least one component at a regulated tariff. This commitment, the effectiveness of which is to be guaranteed by separating the sales teams responsible for electricity and gas at Electricité de Strasbourg, notably eliminates any risk of the company using its business of supplying energy at regulated tariffs as a lever to win customers on the open market.

**• *Access to customer consumption information***

Electricité de Strasbourg commits to establish a database, which will be accessible to alternative electricity and gas suppliers, containing information enabling commercial offers tailored to individual customer requirements to be made. The construction of this database, containing personal consumption data, will be subject to the express and informed consent of the customers concerned, and in accordance with applicable regulations, particularly those under the *Loi Informatique et Libertés* (French Data Protection Act). The effective implementation of this commitment will enable conditions to be established to create a level playing field.

An independent trustee approved by the Autorité de la concurrence will ensure that all commitments are effectively implemented.

The pertinence of these commitments and their possible renewal will be examined before 31 December 2015, the date on which the regulated tariffs for electricity supply must be established "taking into account the historical nuclear energy regulated access price, supplementary costs associated with the supply of electricity which include the performance guarantee, electricity transmission and distribution costs, marketing costs and a normal rate of return" in accordance with the provisions of the law relating to the new organization of the electricity markets (the 'NOME' law). As previously highlighted by the Autorité, the implementation of these provisions should modify the competitive conditions between regulated tariff electricity suppliers and alternative suppliers<sup>1</sup>.

*(1) Opinion Nr 10-A-08 of 17 May 2010 regarding the Government Bill on the new organization of the electricity market.*

**>The full text of decision 12-DCC-20 of 7 February 2012 will be posted online shortly on the web site of the Autorité de la concurrence**

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