14 February 2013: Photovoltaic electricity

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The Autorité de la concurrence will not issue interim measures against EDF but will pursue its investigation on the basis of the complaint lodged by SUN'R



> Version française

The Autorité de la concurrence, following a complaint from power station operator SUN'R about certain practices implemented by the EDF group in the solar photovoltaic sector, has decided not to issue interim measures, deeming that the situation was not urgent enough to warrant them. It has decided however, in the light of collected information, to pursue an investigation on the merits of the case, in order to ascertain whether or not the EDF group breached competition rules by giving preferential treatment to its own subsidiaries operating solar power facilities, and this to the detriment of its competitors.

The regulations governing the photovoltaic electricity production sector

Since 2000, EDF has been required by law to purchase solar-generated electricity produced by its direct competitors. In order to boost the development of this sector, the purchase price set by the government was at first much higher than the market price. Many operators entered the market in response to this highly advantageous climate.

In the face of this "uncontrolled" expansion of the sector, the French government repeatedly reduced the purchase price of this photovoltaic electricity, finally deciding in December 2010 to suspend for three months the purchasing obligation imposed on EDF. At the end of this moratorium, a new significantly

lower purchase price was imposed for new facilities.

Practices of discrimination and favouritism denounced by SUN'R

SUN'R considers that, in the period leading up to the moratorium, EDF introduced discriminatory practices favouring its own solar power subsidiaries (EDF EN, EDF ENR and EDF ENRS), to the detriment of the other independent producers. SUN'R alleges that these obstacles complicated and delayed the connection of its installations to the grid prior to the moratorium, thus preventing it from accessing the more favourable tariffs.

The evidence gathered requires more thorough investigation on the merits of the case

The Autorité de la concurrence considers that the necessary conditions for granting interim measures were not present, since it seems that at this stage of the investigation, the practices in question appear to have been implemented in a particular regulatory context (the period preceding the moratorium), a context that has not been present for more than two years.

However, in view of the evidence gathered at this stage of the investigation, especially through audits carried out within EDF subsidiaries, the possibility cannot be ruled out that during the period preceding the moratorium, the subsidiaries that manage connection requests – ERDF (grid operator) and RTE (transmission network operator) – might have given preferential treatment to projects put forward by the group's own solar power subsidiaries in such a way as to allow the group to benefit from the far more economically favourable pre-moratorium purchasing tariffs.

These factors justify a detailed examination of these practices through a thorough investigation on the merits of the case.

> Full text of Decision 13-D-04 of 14 February 2013 on a request for interim measures relating to practices implemented by the EDF group in the photovoltaic electricity sector (in French)

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