

Competition Council Decision no 50  
of 5 September 2012  
*Summary*

The Competition Council opened in June 2010 an *ex officio* investigation against natural gas distributor Progaz P&D SA following information according to which the company is using abusively its monopoly position held on the market of natural gas distribution in communes Brebu and Telega, Prahova county and Berceni, Ilfov county on the local markets of design and execution works for natural gas installations, regarding the tariffs charged for the approval of the designs and the acceptance of the execution works for such installations.

Progaz P&D SA is a local natural gas distributor which performs several activities in the natural gas sector, such as: natural gas distribution, natural gas supply, design and execution works for natural gas installations, design and execution works for natural gas distribution systems.

According to the sector legislation in force during the assessing of the company's behavior, licensed natural gas distributor has the exclusive right to perform natural gas distribution in the area described in the license and consequently has the exclusive right and also the obligation to verify and issue the approval of the designs and the acceptance of the execution works for natural gas installations in order to start supplying natural gas to consumers. The same legislation provided that design and execution works for natural gas installations could be done by any undertaking authorized by The Romanian Energy Regulatory Authority.

The relevant markets in this case are the market of approval of the designs of natural gas installations and the market of acceptance of the execution works for natural gas installations in the above mentioned communes.

The concerns of the competition authority in this case are about the potential abusive use by Progaz P&D SA of its monopoly position held on the relevant markets by charging discriminatory and excessive tariffs for the approval of the designs and the acceptance of the execution works performed by other authorized undertakings, compared to the tariffs charged for the same services related to the design and execution works performed by itself, practice which might fall under the provisions of art. 6 of the Competition Law. Such behavior of Progaz P&D SA is likely to affect competition on the local markets of design and execution works for natural gas installations by excluding its competitors and extending its domination on these markets.

During the investigation Progaz P&D SA submitted commitments proposal in response to the competition's authority concerns. The commitments are mainly referring to the modification of the tariffs charged for the approval of the designs and the acceptance of the execution works for natural gas installations and in addition to the implementation of a unitary, objective and transparent system for the setting and the adjustment of tariffs for all the services which are not covered by the regulatory provisions and in relation to which PROGAZ P&D SA held a monopoly position in its distribution area.

The Competition Council considers that the commitments proposed by Progaz P&D SA are sufficient for the elimination of the competition concerns identified and they are improving the competition environment by stimulating competition and insuring the right of consumers to the free choice of providers of designs and execution works for natural gas installations.

Competition Council decides that commitments shall be binding on Progaz P&D SA and decides to perform the monitoring of the compliance itself.