



competitiontribunal
SOUTH AFRICA

COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: LM125Oct19

In the matter between:

Exxaro Resources Ltd

Primary Acquiring Firm

and

Cennergi (Pty) Ltd

Primary Target Firm

Panel	: Yasmin Carrim (Presiding Member)
	: Fiona Tregenna Tribunal Member)
	: Thando Vilakazi (Tribunal Member)
Heard on	: 4 December 2019
Order Issued on	: 4 December 2019
Reasons Issued on	: 4 December 2019

Reasons for Decision

Approval

[1] On 4 December 2019, the Competition Tribunal ("Tribunal") unconditionally approved the proposed transaction between Exxaro Resources Ltd and Cennergi (Pty) Ltd.

[2] The reasons for the unconditional approval follow.

Parties to proposed transaction

Primary acquiring firm

[3] The primary acquiring firm is Exxaro Resources Ltd (“Exxaro”), a public company listed on the Johannesburg Stock Exchange.

[4] Exxaro owns and controls various firms in the coal, base metals, titanium dioxide, ferrous and energy industries. However, of relevance to the proposed transaction is Exxaro’s 50% controlling interest in Cennergi (Pty) Ltd (“Cennergi”), the target firm in the proposed transaction.

Primary target firm

[5] The primary target firm is Cennergi, a private company incorporated in accordance with the laws of South Africa. Cennergi is jointly controlled by Exxaro and Khopoli Investments Ltd (“Khopoli”), each with a 50% shareholding.

[6] Khopoli is a wholly owned subsidiary of Tata Power Company Ltd (“Tata Power”), a public company incorporated in accordance with the laws of India.

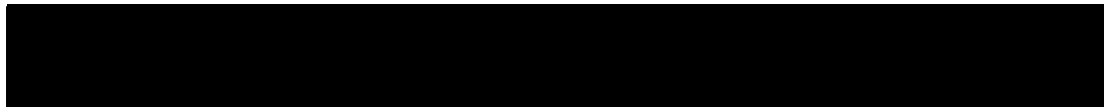
[7] Cennergi controls Tsitsikamma Community Wind Farm (RF) (Pty) Ltd, with a 75% shareholding, and Amakhala Emoyeni RE Project 1 (RF) (Pty) Ltd, with a 95% shareholding.

[8] Cennergi was formed in 2012, as a joint venture between Exxaro and Khopoli to take hold of the opportunities brought about by the Government of South Africa’s Renewable Energy Independent Power Producer Procurement Program (“REIPPPP”). Cennergi is responsible for the production of electricity using wind turbines. The energy produced by Cennergi is supplied to Eskom in accordance with a 20-year power purchasing agreement (“PPA”).

Proposed transaction and rationale

[9] Exxaro will acquire the remaining 50% interest in Cennergi from Khopoli, such that, post-transaction, Exxaro will wholly own and control Cennergi.

[10]





[11] From the perspective of Khopoli, the decision to monetise this South African asset is in alignment with Tata Power's strategy to deleverage the Balance Sheet by divesting sub-optimal sized international assets.

Impact on competition

[12] The Commission considered the activities of the merging parties and found that there is no horizontal or vertical overlap arising from the proposed transaction. Furthermore, the Commission found that Exxaro does not have shares in any company, other than Cennergi, that operates in the renewable energy sector.

Public interest

[13] The merging parties confirmed that, given that there are no overlaps between their activities, the proposed transaction is unlikely to result in any retrenchments. This was confirmed by Takalani Maswime, the employee representative at Cennergi, who further submitted that the employees at Cennergi had no concerns regarding the proposed transaction.

Conclusion

[14] In light of the above, we concluded that the proposed transaction is unlikely to substantially prevent or lessen competition in any relevant market. In addition, the proposed transaction raises no public interest concerns. Accordingly, we approved the proposed transaction unconditionally.

Presiding Member: Ms Yasmin Carrim

4 December 2019

DATE

Prof. Fiona Tregenna and Dr Thando Vilakazi concurring

Case Manager: Helena Graham
For the merging parties: Maphanga Maseko of TGR Attorneys
For the Commission: Hlumani Mandla and Mogau Aphone