



MERGER DECISION NO 15: 2023

Notice in Terms of Section 53(4) (a) (ii) of the Competition Act 2018

DECISION ON THE ASSESSMENT OF THE PROPOSED ACQUISITION OF ADDITIONAL 69.16% ISSUED SHARES IN AFRICAN ENERGY HOLDINGS SRL, FROM FIRST QUANTUM MINERALS LTD BY AFRICAN ENERGY LIMITED, RESULTING IN 100% SHAREHOLDING

Introduction of the Merging Parties

Pursuant to section 53(4)(a)(ii) of the Competition Act 2018 ("the Act"), notice is hereby given on the decision made by the Competition and Consumer Authority ("the Authority") in relation to proposed acquisition of additional 69.16% issued shares in African Energy Holdings SRL ("African Energy Holdings" or the "Target Enterprise"), from First Quantum Minerals Ltd ("First Quantum Minerals") by African Energy Limited ("African Energy" or the "Acquiring Enterprise"). The transaction was notified to the Authority on 26th April 2023, and the merger assessment was completed on 2nd June 2023.

The Acquiring Enterprise, African Energy, is a company registered under the Laws of Australia. African Energy controls and owns Mmamantswe Coal (Pty) Ltd; Phokoje Power (Pty) Ltd (both registered in Botswana); and African Energy Holdings- the Target Enterprise. The Acquiring Enterprise is currently not operational and is only engaged in mining exploration in Botswana.

The Target Enterprise, African Energy Holdings, is a company registered in accordance with the Laws of Barbados; and it is controlled by First Quantum Minerals and the Acquiring Enterprise, African Energy at 69.16% and 30.84%, respectively. In Botswana, African Energy Holdings wholly controls African Energy Resources Botswana (Pty) Ltd, Sese Power (Pty) Ltd and Sese Power Subsidiary (Pty) Ltd. The Target Entity only owns mining leases and licences in Botswana. It currently has two (2) projects both at exploration stage being, Sese Joint Venture Project ("Sese Project"), and Mmamabula West Coal Project ("Mmamabula Coal Project"). Sese Project aims to develop an integrated coal and power project in Botswana. Mmamabula Coal Project aims to provide access to local and regional coal markets.

Relevant Market

In terms of the relevant market, the assessment of the Proposed Transaction revealed that the Acquiring Enterprise is currently engaged in mining exploration of the Target Enterprise's two projects. Additionally, the Proposed Transaction is an

internal restructuring of the Target Enterprise. As such, the proposed transaction is not expected to alter the market structure post implementation.

Competitive Analysis and Public Interest

The Authority's assessment did not reveal any substantial lessening of competition concerns that would arise post-merger as the Proposed Transaction is an internal restructuring. Accordingly, the Authority does not anticipate any competition concerns and public interests concerns to arise in the relevant market in Botswana post-merger.

The Determination

The Authority determined through the analysis of the facts of the merger, that the Proposed Transaction is not likely to result in a substantial lessening of competition, nor endanger the continuity of service, in the relevant market in Botswana. Furthermore, there is no acquisition of market dominance post-merger; nor any negative effect on public interest in Botswana that has been identified in relation to the provisions of the section 52 of the Competition Act 2018.

Pursuant to the provision of section 53 of the Act, the Authority has decided to *unconditionally approve* the proposed acquisition of additional 69.16% issued shares in African Energy Holdings SRL, from First Quantum Minerals Ltd by African Energy Limited, resulting in 100% shareholding.

However, as stated under section 61 of the Act, this approval does not override or negate any other mandatory statutory approvals or processes that any of the parties to this merger must comply with under the Laws of Botswana.

Dated at Gaborone on this 5th day of June 2023.

Tebelelo Pule, Chief Executive Officer, Competition and Consumer Authority,
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