



**BEFORE THE
COMPETITION COMMISSION OF PAKISTAN**

IN THE MATTER OF

FIRST PHASE REVIEW

**ACQUISITION OF SHARES OF SINO WELL
(PRIVATE) LIMITED BY SHANGHAI PILOT FREE TRADE
ZONE WELL ENERGY TECHNOLOGY COMPANY LIMITED.**

CASE: 879/Merger-CCP/17

Commission

Ms. Vadiyya Khalil
Chairperson

Mr. Ikram Ul Haque Qureshi
Member



ORDER

I Background

1 On 4th April, 2017, Sino Well (Private) Limited ("Sino Well") (the "Applicant") through their legal advisor HaidermotaBNR & Co, submitted a pre-merger application (the "application") to the Commission, for the intended acquisition of 700 shares of Sino Well (Private) Limited ("Sino Well") (the "Target") by Shanghai Pilot Free Trade Well Energy Technology Co. Ltd ("Shanghai Pilot") (the "Acquirer"), along with the necessary information submitted under Section 11(3) of the Competition Act, 2010 (the 'Act') read with Regulation 6 of the Competition (Merger Control) Regulations, 2016 (Merger Regulations).

The case is examined as under:

II Merger Parties

Acquirer

2 Shanghai Pilot was incorporated in December 2015 under the Laws of Peoples Republic of China and has still not commenced commercial production. It will be primarily engaged in development, consulting, and technical services and in transmission of energy in industrial and project investment. Shanghai Pilot is a wholly owned subsidiary of Shanghai Marine Diesel Engine Research Institute.

3 The Total Assets of the undertaking as on 31st December 2015, were RMB 100 million [PKR 1000 million (@ 1RMB= 15.20PKR)] while the Turnover remained Nil however the Total Assets of its Parent Company i.e. Shanghai Marine Diesel Engine Research Institute was CHY 100 million [PKR 1520 million (@1CHY=15.20 PKR)] while the Turnover for the above mentioned period remained at CHY 100 million [PKR 1520 million (@1CHY=15.20PKR)].

Target

4 Sino Well was incorporated in Pakistan in June, 2016 as a private limited company. The Company's principal activity is to develop, own, manage and operate wind power generation plant of 50MW for sale of electricity to the power utility. The plant is at initial stage of development.

5 The Total Assets and the Turnover of the undertaking were nil as the company has not commenced business operations.

III Transaction

6 The proposed transaction represents a conglomerate merger. The Acquirer in the proposed transaction will acquire 700 shares (700 shares) of the Target from three individuals namely Mr. Mustafa, Mr. Tabish and Mr. Sadiq. The total paid up capital of the company is PKR 700 million divided into 700 ordinary shares of PKR 1 million each. The transaction value for the proposed transaction is PKR 700 million.

The transaction meets the notification thresholds prescribed in Regulation 4(2) (a) (b) & (d) of the Merger Regulations, by having undertaking's assets valuing more than



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PKR 300 million and turnover of the undertaking being more than PKR 500 million. The percentage of shares to be acquired exceeds 10% of the total shareholding of the Target.

IV Relevant Market:

- 8 The Relevant Product Market in this case is "Power Generation". The country generates electricity through different means mainly thermal, hydel, nuclear and renewable energy. The power generation market has a mix of state owned enterprises and independent power producers (IPP's).
- 9 The Target is inoperative at the moment however, on the basis of installed capacity it has market share while the Acquirer does not have any presence in the relevant market in Pakistan.
- 10 The Relevant Geographic market is Pakistan.

V Findings of the Phase I investigation on the competition assessment

- 11 The competition assessment in Phase I have resulted in the following findings:
- a. In the proposed transaction the Acquirer is acquiring shares of the Target. The Acquirer is an investment company that among other things will also be involved in transmission of energy projects while the Target is a 50MW wind power project that is in initial stage of development representing a conglomerate merger.
 - b. The relevant product and geographic market is a mix of state owned enterprises and IPP's. The market structure represents monopsony.¹ The power market is a regulated market with a single buyer i.e. National Transmission and Distribution Company (NTDC) while the prices are determined by National Energy and Power Regulatory Authority (NEPRA). Alternative Energy Development Board (AEDB) that was established in 2003 to facilitate, promote and encourage development of renewable energy is the regulator for the companies operating in the renewable energy segment. The relevant product and geographic market is also a high entry barrier market due to high cost of setting up a power plant and scarcity of suitable location for setting up a wind power project.
 - c. The Target is inoperative at the moment, however it carries a Letter of Intent for setting up a 50MW wind power plant. The pre-merger market share of the Target on the basis of its installed capacity is . The Acquirer will be operating in the relevant market through investments made in the sector.
 - d. The Post-merger market share of the Merger Parties would remain the same which would be much below the presumption of dominant position i.e. 40% prescribed under Section 2(1) (q) of the Act. Post-merger there will be no change in the market dynamics of the relevant product and geographic market.
 - e. The transaction is not likely to result in creation or strengthening of dominant position in the relevant market. The intended merger does not meet the

¹ A market structure that has only one buyer which interacts with multiple would-be sellers.



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presumption of dominance as determined under Section (2) (1) (e) read with Section 3 of the Act.

VI Conclusion

13 In conclusion, there is no evidence that suggests substantial lessening of competition by creating or strengthening of dominant position in the relevant market, as a consequence of merger. The proposed transaction is hereby authorized under Section 31(1) (d) (i) of the Act.

14 It is so ordered.

Vadiyya Khalil

Vadiyya Khalil
(Chairperson)

Ikram Ul Haque Qureshi

Ikram Ul Haque Qureshi
(Member)



Islamabad, 18th May, 2017