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Answer given by Executive Vice-President Vestager
on behalf of the European Commission
(30.4.2021)

Since 1996, EU co-legislators have engaged in a gradual liberalisation and opening up of the electricity sector to competition, as only an integrated and competitive EU energy market can secure clean and affordable energy to all. Liberalisation produced tangible benefits; wholesale prices have been decreasing in a mid-term view since 2009¹, thus reducing this part of the consumer bill. The wider benefits of integration have been assessed to be several billion euros².

While Member States have wide discretion to impose public service obligations on electricity undertakings, that discretion must be exercised within the limits of the applicable legislative framework. EU energy legislation requires such obligations to pursue a legitimate purpose and to be clearly defined, non-discriminatory and proportionate. For a service of general economic interest (SGEI), a Member State must demonstrate that the service cannot be provided under normal market conditions, that the aid is necessary and proportionate and that the entrustment of a SGEI does not affect the development of trade to such an extent as would be contrary to the interests of the Union.

The Treaty is neutral as regards public or private ownership of undertakings. The role of the Commission is to ensure that any State aid is compliant with the internal market and EU sectorial legislation and guarantees an effective level playing field between all competitors, private and public. From the perspective of EU public procurement law, the decision to create “in-house” entities (“*quasi-régie*”) is a choice of national authorities. However, should the French authorities decide to do so, then the “in-house” cooperation between the State and the entities of the electricity sector concerned would have to respect the strict conditions laid down in Directive 2014/23/EU³.

¹ COM(2020) 950 final ANNEX 1 ANNEX to the REPORT TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS 2020 report on the State of the Energy Union pursuant to Regulation (EU) 2018/1999 on Governance of the Energy Union and Climate Action

² For example, in a study by Booz & Co, the benefits of integrating the market were estimated in the range of EUR 12.5 billion to EUR 40 billion per year by 2030

(https://ec.europa.eu/energy/sites/ener/files/documents/20130902_energy_integration_benefits.pdf)

See also The Cost of Non-Europe in the Single Market for Energy (+ Annexes I-IV + Booklet)

([https://www.europarl.europa.eu/thinktank/en/document.html?reference=IPOL-JOIN_ET\(2013\)504466](https://www.europarl.europa.eu/thinktank/en/document.html?reference=IPOL-JOIN_ET(2013)504466)) by the European Added Value Unit of the Directorate for Impact Assessment and European Added Value of the European Parliament

³ Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts, OJ L 94, 28.3.2014, p. 1–64