

**COMPETITION COUNCIL'S DECISION**  
**No 133 of 19.07.2005**  
**concerning the notification of the Local Council of the City of Targoviste**  
**regarding the financial support measure**  
**for S.C. TERMICA SA TARGOVISTE**

**THE COMPETITION COUNCIL,**

Taking into account the provisions of the European Agreement establishing an association between Romania and the European Community and its Member States, approved by Law no. 20/1993, published in the Official Journal of Romania, Part I, no. 73 on 12 April 1993;

Based on the provisions of Competition Law no. 21/1996, published in Official Journal of Romania, Part I, no. 88 on 30 April 1996, amended and completed by Emergency Government Ordinance no. 121/2003 approved by the Law no. 184/2004;

Based on the provisions of Law no. 143/1999 on state aid, with the subsequent modifications and completions,

Based on the provisions of the Regulation on the state aid for environmental protection, with the subsequent modifications and completions,

Based on the provisions of the Decree no. 57/2004 for the appointment of the Competition Council members,

**On the following grounds,**

**1. PROCEDURE**

(1) By letter no. 7956a/21.04.2005, registered at the Competition Council with the no. RS-AS 16/27.04.2005, the Local Council of Targoviste notified to the Competition Council under art. 6 of *Law 143/1999 on state aid, with subsequent amendments and completions*, the financial support for S.C. TERMICA S.A. TARGOVISTE.

(2) By letters no. DAAS/439/16.05.2005 and no. DAAS/561/13.06.2005 supplementary information was requested in completion to the notification form. The Local Council of Targoviste and S.C. Termica S.A. Targoviste have submitted the answers to the supplementary information by letters no. 9641a/20.05.2005 and 11529a/15.06.2005, registered at the Competition Council with no. DAAS/459/20.05.2005, respectively DAAS 580/15.06.2005.

(3) The notification became effective on the date the information was complete, namely on 27.06.2005.

## **II. DESCRIPTION OF THE MEASURE'S OBJECTIVE**

### **2.1 Detailed description of the investment project - Background**

(4) The 'Municipal Targoviste Cogeneration' Project is one of the first projects initiated on the basis of the Framework Agreement between Netherlands and the Romanian Government, with the purpose of stimulating the development of modern combined heat and power cogeneration projects under the form of Joint Implementation Projects.

(5) Based on a proposition made by the Targoviste municipality and SC TERMICA SA, wholly owned by the municipality, NUON Energy Romania (hereafter NER) experts together with the municipality and SC Termica SA Targoviste have made a study on the limitations of the present system of heat production, transport and delivery and of the possibilities to improve it. The production facilities for heat are obsolete (25-30 years), which means not only a short residual period of life, but also a low calorific efficiency. Furthermore, the existing heating capacity is not sufficient to cover the population's needs during the cold season, leading to a lack of comfort and the population's dissatisfaction.

(6) Though TERMICA made, in time, high efforts to improve the condition of the heat transport and delivery networks, the present losses of energy during transport are still too high, making obvious the fact that this Project, which has as purpose the minimizing of the CO<sub>2</sub> emissions level, should be considered not only for the cogeneration part but also for the other processes part of the production, transport and delivery cycle.

(7) Besides the objective of producing combined heat and electric power, the project will replace the obsolete and more polluting power plants as well as the fuel, shifting from lignite to natural gas, therefore resulting in lower emissions of CO<sub>2</sub> into the atmosphere.

#### Description of the Project's objectives:

(8) The Project's main purpose is to efficiently cover the thermo energy deficit, at the lowest possible prices and the fulfilment of the European legislation on the emissions of polluting agents.

(9) According to the feasibility study prepared by the Institute of Energy Studies and Projects S.A. Bucuresti (hereafter ISPE), the new production facilities (cogeneration installations and heating boilers (hereafter „HOBs”), together with the rehabilitation of the existing HOBs and of the heating transport networks will lead to a more efficient and profitable heat production, considerably diminishing the consumption of primary fuels and leading, in the end, to cheaper products with a lower environmental impact. Furthermore, it will be achieved a higher comfort level for the undertakings' customers.

(10) The following new production capacities are envisaged:

- 13 cogeneration modules with thermo engines on gas, with a total power of 6.5Mwe;
- 2 new hot water boilers, with a thermo power of 14 MWth.

(11) The performance criteria aimed by these developments of new capacities, taking into account the real situation of heat consumption on consumption categories, are the following:

- Obtaining certain electricity savings;
- Protecting the environment by introducing burning installations with reduced NOx;
- Increasing the security in operating the heating installations;
- Increasing the flexibility of the operating scheme;
- Increasing the degree of automatizing the thermo-mechanical installation;
- Rehabilitating the electrical equipment;
- Introducing the fire warning and alarming systems, according to the provisions in force specific for the electrical installations.

(12) In accordance with the requests from the project theme, it is aimed to split the investment works into the following stages:

**Stage I:**

- assembling 5 cogenerating modules with thermo engines on gas, of 500 kWm each;
- assembling 2 new HOBs of approximately 7 MWth each;
- building circular pumps' room;
- modifying path thermo-networks within the company's premises.

**Stage II:**

- assembling 8 cogenerating modules with thermo engines on gas, of 500 kWm each.

(13) The activities through which the project will achieve its proposed objectives are the following:

- NER (Nuon Energy Romania) will build and own the new cogeneration facilities and the new HOBs;
- TERMICA will be responsible for the rehabilitation and bringing up to date of one of the existing HOBs and of the heat transport networks;
- Nuon Warmte N.V. will make the necessary arrangements so that NER will finance and build the cogeneration facilities and the new HOBs;
- NER and TERMICA will cooperate to competently, efficiently and professionally manage the project, so that it will minimize the costs paid by the final consumers for thermo energy and electricity.

Intended benefits of the Project

(14) Along with the production of energy in cogeneration, the acquisition of a new, more efficient HOB installation, together with the improvement of the existing HOBs and of the energy transport networks will lead to an important decrease of the losses in the system and to the increase of the heat production's efficiency.

A much lower pollution degree will result from:

- A lower heat demand from the final users;
- Lower losses during the thermo energy transport;

Consequently, the combined heat and power production will lead to a higher efficiency. Furthermore, being produced in cogeneration, the electricity will replace the electricity which, in other conditions would be produced with a much lower efficiency and using more polluting fuels.

(15) The results to be achieved after implementing the project, are the following:

1. decreasing the net demand of heat with 36,100 GJ/year;
2. decreasing the losses resulted from the producing and transport of heat with 10% (99,928 GJ/an);
3. installing new boilers with 94% efficiency, also increasing the capacity of the system producing heat with 14 MWth;
4. achieving a net efficiency for the boilers of 90%, due to the replacement of the installations, pumps, valves, etc;
5. producing the heat in cogeneration: 285,333GJ/year;
6. producing the heat by using the new HOBs: 235,398 GJ/year (upon full implementation of the project);
7. producing the heat by using the rehabilitated HOBs: 258,709 GJ/year (upon full implementation of the project);
8. power plant producing electricity by cogeneration: 53,961 MWh<sub>e</sub>/year;
9. reducing the CO<sub>2</sub> emissions (Ktons/year): 74.96 in 2006, 75.57 in 2007, 76.17 in 2008, 76.76 in 2009, 77.33 in 2010, 77.89 in 2011 and 78.44 in 2012 (only 90% of these quantities will be sold by contract to the Dutch Government Agency SENTER by NER under the ERUPT 4 Program – Emission Reduction Unit Procurement Tender).

a) Detailed description of technology:

(16) The Project will be based on engines functioning on gas, well known for their robustness and safety, particularly at low gas pressure, this being a mandatory condition in the Romanian context. Nuon's experience and possibilities related to this type of projects was proved by the results from Netherlands, where more than 650 installations with gas engines, with an installed capacity of approx. 1.000 Mwe, comparable to those to be installed in Targoviste, function efficiently and with low costs.

b) The planned efficiency:

(17) The experience accumulated in Sibiu since 1997 shows that when well maintained, the cogeneration installation as well as the HOBs have high utility, comparable with the Netherlands installations. The maintenance for the new installations in Targoviste will be based on a contract strictly stipulating the frequency and the type of all maintenance activities. Therefore, it is expected that the installations will achieve the same utility degree as those operating at NUONSIB, namely 95% and even more.

c) The forecasted capacity factors and the activity level of the related project:

(18) Besides the technical utility, the demand influences the manner in which the new installations will be used and the related capacity factors. A simulation of the future activity of TERMICA's facilities, generating heat and energy, was conducted, with the purpose of minimizing the fluctuating costs.

The related capacity factors and the annual production for each installation type are presented in table no. 1 below:

Table no. 1: The capacity factors and the project's activity levels after whole implementation

Installation	Electrical capacity	Heat capacity	Capacity factor	Electricity production	Heat production
UM	MWe	MWth	%	MWhe	GJ
Gas engines	6.8	10.0	90.39	53,961	285,333
New HOB	-	14.0	53.32	-	235,398
Rehabilitated HOBs	-	58.2	14.11	-	258,709

Source: Draft of Targoviste Municipal Cogeneration by NUON Romania

(19) As the hot water boiler no.1 of 25 Gcal/h was brought into preservation, (according to the Energy Agreement no. 99004/02.02.1999 issued by the Romanian Agency for Preserving Energy) and as demand for hot water necessary in Targoviste increased, the Project brought some proposals:

- to dismantle the steam boilers no. 4 and 5, and in those spaces to assemble two performing hot water boilers of 7 Gcal/h;
- to dismantle the hot water boiler of 25 Gcal/h no.1;
- for compensating the hot water from HOB no.1 of 25 Gcal/h to assemble in the pump room, together with the present cogeneration module, other 13 cogeneration modules fueled with natural gas but with much higher power, of 475 kWe.

(20) These measures for correcting the present weaknesses involve the extension of the present building for pumps, the change of the present supply from lignite to natural gas for the cogeneration module, and to build up an installation for supplying with natural gas the cogeneration modules.

### III. DESCRIPTION OF THE BENEFICIARY

#### 3.1 The Beneficiary - S.C. TERMICA S.A. TARGOVISTE

(21) The Beneficiary of the notified state measure of support is S.C. TERMICA S.A. TARGOVISTE. The company was established based on the Local Council's Decision no. 41/18.03.1998 and the GD no. 105/1998, as a result of the transfer of the Heating Plant Targoviste Sud from RENEL - (the subsidiary Electrocentrale Doicesti) into the administration of Local Council of Targoviste City. The registered capital of the S.C. TERMICA S.A. TARGOVISTE is ROL 7,633,025 thousand and it is owned in totality by the Local Council of Targoviste City. The company is headquartered in Targoviste and registered at the Trade Registry under no. J15/141/1998.

The undertaking does not fall within the definition of an SME as stated in the Regulation regarding state aid for SMEs with the subsequent modifications and completions.

(22) According to the GD no. 105/1998 on S.C. TERMICA S.A. TARGOVISTE 's establishment, the company's main line of business is the production, transport and distribution of heating energy for the preparation of hot water and for heating. According to art. 2 from the Law on public services of town management nr. 326/2001 establishing the legal framework for setting up, organization, monitoring and control of functioning of the public services for city administration in counties and cities, the public services for city administration represent the activities and utility of local interest, under the local public

administration authority, with the purpose of delivering public utility services. By the licenses granted by the National Agency for Regulation of the City Services Sector (hereafter ANRSC) the company was entrusted with the performance of production, transport, distribution and supply of the heating energy designated for the population and public institutions. S.C. TERMICA SA TARGOVISTE owns the ANRE licenses no. 28/28.06.2000 for producing heating energy, no. 29/28.06.2000 for transporting heating energy, no. 30/28.06.2000 for distributing heating energy and no. 31/28.06.2000 for supplying heating energy. The company supplies caloric energy as hot water for the preparation of hot water and heating, in view of ensuring the consumption of the population, budgetary institutions and undertakings. The company does not have among its consumers industrial undertakings. The supply of urban heating energy is centralized and mainly formed from the heat source CT Targoviste Sud, transport networks, thermo-points and delivery networks which are property of the Local Council of Targoviste, by concession agreement.

(23) In order to carry out its activity, S.C. TERMICA SA TARGOVISTE owns the following equipments and installations:

- **For the production of heating energy:**

This is achieved through the use of the following equipments:

- for hot water: boilers of different types and dimensions.

- **For the transport of heating energy:**

- A thermo network is operated and maintained covering the way from the heating-plant to neighborhood heating-units and undertakings.

- **For the distribution of heating energy:**

It is achieved through the thermal units and the secondary networks.

### **3.2. The relevant market**

(24) The product's relevant market is the market of the production, delivery, transport and supply services for the heating energy, named at large energy services of local economic interest. These services function within a centralized system and are organized under the coordination and the control of the local public administration authorities, according to the local autonomy principle. The geographical market is represented only by the area of Targoviste city, therefore is a market of local interest. From the prices' point of view it is a regulated market as the undertaking sales heating energy produced at prices fixed by ANRE for domestic consumers as well as for public institutions and it has to insure the supply of heating energy to all those connected to the network, without discrimination. In the same time, all consumers within the network are captive consumers as they do not have the possibility to choose their heating energy supplier.

## **IV. DESCRIPTION OF THE MEASURES**

(25) The financial support measures notified by Targoviste Local Council as intended to be granted to the undertaking consist of the following:

- EURO 500,000 grant by the Targoviste Local Council and

- a guarantee of the Targoviste Local Council representing 50% of a lease financing agreement between NUON Energy Romania S.R.L. and S.C. Termica S.A. Targoviste.

#### **4.1 Total cost of Project – Eligible costs**

(26) The eligible costs are confined to the investments costs necessary to meet the environmental objectives. As no standard exists in Romania, according to art. 6 para. 6 of the Regulation on state aid for environmental protection with the subsequent modifications and completions, the eligible costs will consist of the total investment cost (as indicated in paragraph 27 below).

(27) The installations for producing energy in cogeneration are high value installations which also need, in order to be brought into function, works and improvements, as well as professional training for the personnel and insuring the maintenance for the whole lifetime period, in total amount of Euro 7,980,000, as it can be seen in the project's cost estimate.

[...]

### **V. STATE AID ASSESSMENT**

(28) The measures outlined in par. (25) above constitute state aid within the meaning of Law no. 143/1999 on state aid with the subsequent modifications and completions. The guarantee and grant which come from the Local Council constitute state resources and are for the benefit of a specific undertaking SC Termica SA Targoviste. Such aid provides an advantage to SC Termica SA Targoviste allowing it to secure financing for the project on favorable terms and consequently, may have a distortive effect on the normal competitive environment and an impact on the trade between Romania and the EU member states.

#### **5.1 Analysis of the state aid support measure**

(29) Based on the notification submitted to the Competition Council by the Local Council of Targoviste, the object of the present decision is represented by the state aids mentioned at point (25).

(30) Taking into account SC TERMICA SA Targoviste's business profile, the undertaking could obtain from a Romanian commercial bank a loan for an amount equivalent to the value of the leasing contract but without the Local Council's guarantee at an interest of 12% p.a., compared to an interest of only 8% p.a. they would be paying due to the proposed guarantee.

(31) Therefore, it can be concluded that the value of the state aid under the form of guarantee equals the difference between the interest the company would pay to a commercial bank and the interest it is supposed to pay with the guarantee, as it can be seen in the following table:

[...]

(32) Thus, the total value of the measures constituting state aid is obtained by adding the grant and the guarantee to be granted by the Local Council:

State aid = Guarantee + Grant = 1,419,126 + 500,000 = EURO **1,919,126**.

In particular, the guarantee stated above has been assessed not to fulfil all the „conditions excluding the existence of aid”, as set out in paragraph 4.2 of the Guidelines regarding the state aid under the form of guarantees.

Further, in relation to the same guarantee, i.e. 50%, it has been assessed that there is unlikely to be any aid to NER, as per 3.4 of the Guidelines regarding the state aid under the form of guarantees.

## **5.2 State aid intensity**

(33) According to provisions of art. 5 paragraph (4) from the Regulation, the state aid for investment in the combined production of heat and power may benefit from a basic rate of 40% of eligible costs.

(34) Eligible costs of the investment project of SC TERMICA SA Targoviste are of EURO 7,978,000 and the value of the state aid, according to point (27) of the present decision is of EURO 1,919,126. The eligible costs are confined to the investments costs necessary to meet the environmental objectives. As no standard exists in Romania, according to art. 6 para. 6 of the Regulation on state aid for environmental protection with the subsequent modifications and completions, the eligible costs will consist of the total investment cost. Therefore, it results a state aid intensity of 24.06%, a level meeting the Regulation criteria.

(35) Given the above, it is considered that conditions mentioned at art. 5(4) from the Regulation on state aid for environmental protection are met. Therefore, the support measures for S.C. Termica S.A. Targoviste notified by the Local Council of Targoviste constitutes state aid within the meaning of art. 2 *from Law no. 143/1999 on state aid, with the subsequent modifications and completions* and of the *Regulation on state aid for environmental protection*.

## **5.3 State aid compatibility**

(36) It is considered that aid to the Municipal Cogeneration Targoviste Project is compatible with the development of certain economic activities and does not adversely affect trading conditions to an extent contrary to the common interest, pursuant to art. 87 (3) (c) of the EC Treaty. In these circumstances, the aid measures are consistent with the concept of environmental protection as defined by art. 1 a) of the Regulation on state aid for environmental protection, i.e. aid to „encourage the efficient use of resources”.

(37) According to art. 5 paragraph (4) from the *Regulation on state aid for environmental protection*, investments in the combined production of electric power and heat may qualify for such state aid if it can be shown that „the conversion efficiency is particularly high, because the measures will allow energy consumption to be reduced or because the production process will be less damaging to the environment”. „In this respect special consideration will be given to the type of primary energy used in the production process and to the fact that an increased energy use from combined production of heat and power is a national priority for the environment”.



(38) The conditions setting out the mobilization of the guarantee are set out in art. 3 of the Guarantee Agreement, annex to the Leasing Agreement.

### 5.3.1. The *high conversion efficiency* criterion

(39) The heat consumptions considered for the calculation are those delivered by S.C. Termica S.A. Targoviste in 2003, respectively of 67.09 Gcal/h hot water and 59.06 Gcal/h heating energy. Also, the annual heat consumption delivered, respectively 117,402 Gcal/year, of which 52,062 Gcal/year hot water and 125,340 Gcal/year heating energy.

(40) Based on data presented in the notification presenting the manufactured and delivered heat energy, the electricity manufactured and delivered and the annual fuel consumption in the final stage, the technical elements for calculation are the following:

- produced heat	177,402 Gcal/year;
- delivered heat to the Thermal Point	157,614 Gcal/year;
- electricity produced	50,720 MWh;
- electricity delivered	45,776 Mwh;
- annual consumption fuel	35,231 tcc.

(41) The units which have not been rehabilitated and continue operating on lignite have a present net efficiency of 20-28% (confirmed by the Planning, Studies and Engineering department of TRANSELECTRICA SA). After implementation of the rehabilitation program, it is expected that these units reach an efficiency of approx. 30%, and some of them considered as better ones, of 33%.

(42) In the case of separate production of electric power and heat, the total efficiency of electric power and heat production is of 45% (32% for electricity and 62% for heat). In the case of the combined production, the global efficiency for the same electric power and heat is of 87.7%, and the lowest efficiency in the case of combined electric power and heat production is of 80%. The combined electric power and heat modules are complex units with a synchronous generator for alternating current, each module being able to operate both with a thermal priority as well as with electric priority. The modules comply with quality requirements according to ISO 9001 and EU provisions.

### 5.3.2 The *reduced energy consumption* criterion

(43) In order to determine the level of activity for the same level of heat demand it was considered that the installation for the new cogeneration units as well as the rehabilitation of the existing HOBs will be finalized by the end of 2006. The modernization of the transport networks will be done gradually and will be reflected in a decrease of the system losses. The results of the modernization and decrease of the transport system losses can be seen in table no. 4:

Table no. 4 The decrease of losses in the transport network and production of heat required

	2006	2007	2008	2009	2010	2011	2012
<b>Heat demand (GJ)</b>	685.908	685.908	685.908	685.908	685.908	685.908	685.908
<b>Transport losses (GJ)</b>	150.565	140.487	130.649	121.043	111.659	102.492	93.533
<b>Heat</b>	836.473	826.395	816.557	806.950	797.567	788.400	779.441

<b>production (GJ)</b>							
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*Source: Draft of Targoviste Municipal Cogeneration by NUON Romania*

Although it is expected the heat demand to reach a peak in 2012, this will be covered more efficiently by the new HOBs, a conservative estimate shows a higher participation of the boilers (both new and refurbished) with a commensurate increase. The resulting activity levels are presented in table no. 5.

Table no. 5 Estimated activity levels

	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>
Combined power production (Mwhe)	53.961	53.961	53.961	53.961	53.961	53.961	53.961
Combined heat production (GJ)	285.333	285.333	285.333	285.333	285.333	285.333	285.333
Heat production new HOBs (GJ)	262.569	257.768	253.081	248.504	244.034	239.666	235.398
Heat production refurbished HOBs (GJ)	288.571	283.294	278.143	273.113	268.200	263.400	258.709

*Source: Draft of Targoviste Municipal Cogeneration by NUON Romania*

It can be observed that the measures to replace the fuel with natural gas, to purchase a new HOB and refurbish the old ones will allow the reduction of primary energy consumption, respectively the reduction of fuel costs by 37.8%.

**(44)** The concrete results of the measures included in the proposed project will be:

- the consumption of the 13 cogeneration modules of 3,521 Nmc/h, increased by additional receivers added in 2003, resulting a total of 3,585.274 Nmc/h.
- the consumption of dismantled receivers of 4,990Nmc/h.

**(45)** In conclusion, the production in cogeneration of electric power and heat, the replacement of existing sources with modern sources and rehabilitation of networks in the primary circuit will bring annual fuel savings of 22,822 to/year (primary energy). These results are shown in the Feasibility Study for the project drafted by the Institute of Energy Studies and Projects S.A. Bucuresti.

Currently, the company is a supplier of heating energy and in 2004 had the production and consumptions presented below in table no. 6:

[...]

**(46)** By implementing the proposed program the company will produce combined electric power and heat through cogeneration, energy subject to priority (according to ANRE regulations) and will replace an actual capacity producing electricity in classic coal (lignite) power plants.

(47) In the case of producing electricity in coal power plants, consumptions and emissions are as follows:

[....]

As it can be seen, CO<sub>2</sub> emissions prior to project implementation are of **119,227 to/year**.

(48) After project implementation and switching from coal fuel to cogeneration, on gas, the productions and consumptions will be as follows:

[....]

Regarding the price of heating energy to the final consumer, from economic and financial calculation included in the Feasibility Study, it results that following the proposed investments this price will be lower by 20% from the current level.

From data presented above, the project implementation will bring the following advantages:

- **CO<sub>2</sub> emissions reduction by 62,955 to/year** (from 119,227 to/year to 56,232 to/year);
- **Reduction of primary energy (natural gas) consumption** for the production of the same quantity of heating energy by **5,628,940 Nmc/year**;
- **the average efficiency** for the production of heating energy increases from **68.89% to 87%**;
- the cost of the heating energy produced in cogeneration is of approximately EURO 18/Gcal, compared to the actual price of EURO 30/Gcal;
- the undertaking's turnover will increase from ROL 172,849,026 thousand to ROL 237,024,760 thousand (according to the feasibility study).

### ***5.3.3 The reduction of negative effects on the environment criterion***

(49) The current Romanian legislation does not provide standards for CO<sub>2</sub> emissions for equipments below 50 Mw, therefore the project aims for the Joint Implementation according to the ratification of the Kyoto Protocol. In the national strategy of Romania regarding the protection of the atmosphere (GD no. 731/2004) point II.2 there is a correlation made between the national and communitary legislation. According to this, the law allowing for the application of the Kyoto Protocol provisions is Law no. 3/2001, in compliance with the Kyoto Protocol from the United Nations Framework Convention on Climate Changes, adopted on 11.11.1997. Also, Romania will meet the requirements of art. 2 from the Annex to the Marrakesh Declaration „Modalities, regulations and guidelines for selling emissions”.

(50) The general regulations from Romania regarding protection of the environment are stipulated by the Law on environmental protection no. 137/1995, the Law on water no. 107/1996, the Law of Forestry Code no. 26/1996 and the Law on the management of land property no.18/1991, the most relevant to the project being the Law on environmental protection. An important regulation based on the Law on environmental protection is the Order no.125/1996 issued by the Ministry of Water, Forests and Environment Protection (hereafter MAPM), including the approval procedure for „economic and social activities with an impact on the environment”. This order makes distinction between:

- the environmental agreements for the construction and erection of facilities and infrastructure,
- the environmental permits to operate such facilities.

(51) As seen above, following the implementation of the project CO<sub>2</sub> emissions will be reduced by **62,955 to/year** (from 119,227 to/year to 56,232 to/year) from which a saving of 50,500 CO<sub>2</sub> to/year is obtained from cogeneration (497,325 to between 2006-2012 will be sold through ERUPT 4 Program - EMISSION REDUCTION UNIT PROCUREMENT TENDER). If the project is not implemented (separate production of electric power and heat with the existing capacities) emissions would be of 108,425 CO<sub>2</sub> to/year, while the project implementation will bring their level to just 56,232 CO<sub>2</sub> to/year.

(52) From the production process of SC TERMICA SA Targoviste result other polluting agents; therefore, green gas emissions are considered mainly having in view the ***installation of burning gas purification and stainless steel noise damper*** which will bring the level of emissions to NO<sub>x</sub> < 250mg/Nm<sup>3</sup> and CO<325mg/Nm<sup>3</sup> and reduce the noise of exhaust burned gas.

(53) According to the request of the beneficiary, the exhaustion of the burned gas from cogeneration modules will be carried out by metallic flues of 30m, 25 m and 50m height respectively of 850mm, 900mm respectively 1,800mm diameter. Both the gas pipes and smoke flues will be thermally insulated so as to comply with the provisions of the Law on labor protection no. 90/1996.

(54) The Order of MAPM regulates the technical conditions regarding the protection of the atmosphere and establishes the maximum values for the emissions of pollutants for burning installations with a thermo power below 50 MWT, and the equipment supplier (cogeneration modules HOBs) will warrant that the level of pollutant emissions fall within the values admitted by the Order of MAPM no. 462/1993.

(55) The quality of the deployed waste water will meet the indicators provided in the normative NTPA002/2002 for deployment into the municipal sewerage network and the waste resulted during the mounting of the new equipment and installations will be stored in special facilities, recycled or sold. They will be selectively collected, transported, stored temporarily or for good, by categories and disposed of according to Law no. 426/2001.

(56) In conclusion, the modern equipment of the power plant, the use of a more efficient and less polluting fuel - natural gas – will have a positive impact on the environment, compared to the existing operating conditions.

(57) It must be underlined that the Project is a joint implementation between Romania and Netherlands based on art. 6 of the Kyoto Protocol which has been ratified by Romania through Law no. 3 from 2001. Also, the undertaking has committed to comply with the provisions of the Marrakesh Protocol regarding selling of polluting gas emissions.

(58) As regards the possible distortion of competition, the undertaking's business is restricted to a limited market represented just by the area of the city of Targoviste. S.C. Termica S.A. Targoviste is the only operator on this market and is not involved in export activities. In these circumstances, we consider that the granting of this state aid does not unduly affect trade between Romania and the Member States of the EU.

## CONCLUSIONS

(59) Information presented in the notification submitted to the Competition Council leads to the conclusion that the state aid intended to be granted to S.C. Termica S.A. Targoviste is not likely to significantly affect the normal competitive environment and does not infringe the proper application of the international treaties Romania is a part of.

(60) Following the analysis above, the Competition Council notes that the state aid being granted to S.C. Termica S.A. Targoviste in total amount of EURO **1,919,126** consisting in a grant of Euro 500,000 and the guarantee of the Local Council of the City of Targoviste, fulfils the authorizing criteria according to the *Regulation on state aid for environmental protection, with the subsequent modifications and completions*.

## **DECIDES**

**Art.1.** The financial support measures for S.C. Termica S.A. Targoviste constitute state aid within the meaning of art. 2 from *Law no. 143/1999 on state aid, with the subsequent modifications and completions*.

**Art.2.** Based on art.12 para. (2) c) and art.14 para. (1) c) from Law no.143/1999 with subsequent modifications and completions the state aid for environmental protection to be granted to S.C. Termica S.A. Targoviste is granted provided art. 3 and art. 4 of the present decision are fully complied with.

**Art. 3.** The Local Council of the City of Targoviste together with the beneficiary commit to make no changes to the financial leasing agreement included in the notification. In the opposite case the aid will be recovered according to the legal provisions.

**Art. 4.** The Local Council of the City of Targoviste will monitor the aid granted to SC Termica S.A. Targoviste to avoid the surpassing of the maximum aid intensity provided by the legal provisions in force, observing the aid cumulation for the same objective and beneficiary.

**Art. 5.** The maximum value of the state aid of which SC Termica S.A. Targoviste may benefit, as a part of the investment program is of EURO 1,919,126.

**Art. 6.** The present Decision becomes applicable as of the date of its communication.

**Art. 7.** According to the provisions of art. 24 from Law no. 143/1999 on state aid with the subsequent modifications and completions, the Local Council of the City of Targoviste will submit annually to the Competition Council information regarding the state aid subject to the present decision in order to inventory the state aids.

**Art. 8.** According to provisions of art. 29 of Law no. 143/1999 on state aid with the subsequent modifications and completions, the present Decision may be appealed by interested parties at the Court of Appeals Bucuresti, Administrative Litigation Section within 30 days from its communication.

**Art. 9.** The present decision will be communicated by the Secretariat General of the Competition Council to:

- Consiliul Local al Municipiului Targoviste, str. Revolutiei nr.1-3, jud. Dambovita;
- S.C. Termica S.A. Targoviste, Bd. I.C. Bratianu nr. 50, Targoviste, jud. Dambovita.

**Art. 10.** The General Secretariat and the State Aid Authorization Department of the Competition Council will monitor the compliance with the present Decision.

**PRESIDENT**

**MIHAI BERINDE**