



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No:55/LM/May12
015081

**Petroleum Oil and Gas Corporation of South
Africa (SOC) Limited**

Acquiring Firm

And

**Certain Offshore Oil and Gas Assets in
South Africa Held by Pioneer Natural Resources
South Africa (Pty) Ltd and Petroleum South Cape
(Pty) Ltd**

Target Firm

Panel	:	Norman Manoim(Presiding Member) Yasmin Carrim (Tribunal Member) Andreas Wessels(Tribunal Member)
Heard on	:	18/07/2012
Order issued on	:	18/07/2012
Reasons issued on	:	20/07/2012

Reasons for Decision

APPROVAL

[1] On 18 July 2012 the Competition Tribunal (“Tribunal”) unconditionally approved the proposed transaction between Petroleum Oil and Gas Corporation of South Africa (SOC) Limited (“PetroSA”) and certain offshore oil and gas assets in South Africa held by Pioneer Natural Resources South Africa (Pty) Ltd (“Pioneer SA”) and Petroleum South Cape (Pty) Ltd (“PSC”). The reasons for approval of the proposed transaction follow below.

THE TRANSACTION

[2] The proposed transaction impacts the market for exploration of natural gas which is refined to produce petroleum products. In terms of the proposed transaction Petro

SA which is ultimately owned by the South African government through the Department of Energy, seeks to increase its shareholding in the assets which it owns jointly with Pioneer SA and PSC. Pioneer SA and PSC are wholly owned by Pioneer Natural Resources USA (Pioneer US).

[3] In terms of the proposed transaction PetroSA will effectively acquire:

- Pioneer SA's 40% undivided share in the Sable field Mining Lease (in terms of the joint venture between PetroSA and Pioneer SA) entitling Pioneer SA to 40% working interest in the oil production from the Sable field¹;
- Pioneer SA's 45% undivided share in the South Coast Gas (SCG) Development Project which involves the production of natural gas from a number of fields linked by a sub-sea pipeline.

[4] Currently Petro SA holds 60% undivided share in the Sable field mining lease, and also holds 55% undivided share in the SCG Development Project and is the operator of that project. Thus post-merger PetroSA will have 100% share and have sole control of the Sable field Mining Lease and the SCG Development Project.

[5] Essentially the transaction is a move from joint to sole control.

THE RATIONALE FOR THE TRANSACTION

[6] According to PetroSA the proposed transaction is an opportunity to increase its reserves base and have control of the natural gas that currently feeds PetroSA's Gas to Liquid Plant. Further, this will create flexibility for PetroSA in the production of hydrocarbons to for its own requirements.

[7] Pioneer SA and PSC wishes to divest the target assets and close its operations in South Africa. This is in line with its strategy to allocate and focus its investment capital on its United States onshore assets.

¹ Oil production from the Sable fields ceased in 2008 and was replaced by the production of natural gas.

COMPETITION ASSESSMENT

Activities of the merging parties

[8] PetroSA's core business activities are in the exploration and production of oil and natural gas which is refined to produce petroleum products such as petrol, diesel, illuminating paraffin, lubricants, etc.

[9] The target assets consist of the production and sale of natural gas, which are only used for the production of and sale of natural gas to PetroSA.

[10] The relevant upstream market is thus defined as the market for the exploration and extraction of natural gas, and the relevant downstream market as the market for refining and production of petroleum products nationally.

Horizontal Analysis

[11] The Commission found that in the upstream market there is a horizontal overlap in the activities of the merging parties. However, the Commission found that there are no anti-competitive concerns raised since the merged entity will continue to face competition from Sasol, which has 73% market share in this market.

[12] We find that it is artificial to view the merging parties as competitors in the upstream market since pre-merger Pioneer SA is only supplying Petro SA with natural gas, and this will continue post-merger. Hence, the proposed merger does not change the competitive landscape in the relevant market.

Vertical Analysis

[13] There is a vertical relationship between the activities of the merging parties in that PetroSA refines the natural gas that it sources from its own natural gas production and from the SCG project, Sable fields, to produce petroleum products.

[14] The Commission, following our approach in the merger between *Total South Africa and Tosaco Commercial Services (Pty) Ltd*², assessed the market shares in the downstream market, looking at the different narrow markets of petroleum products such as petrol, diesel, illuminating paraffin and lubricants. The Commission found that PetroSA has relatively low market shares in the downstream market being; 9%

²Tribunal Case Number 34/LM/Jun10

in the petrol market, 6% in diesel, and 1% in lubricants, except in the market for illuminating paraffin where PetroSA's market share is 28%. However, even in that market PetroSA faces competition from various competitors such as Sasol, BP and Shell, and Engen among others.

[15] In the overall downstream market for the production and refining of petroleum products, PetroSA has an estimated market share of 6%. It is therefore unlikely that the merged entity will engage in any possible foreclosure conduct post-merger.

[16] Post-merger PetroSA will continue to utilize the natural gas that the target firms are currently supplying to it, although PetroSA will now have the sole rights to the assets allowing for continued exploration and production of natural gas. As such, the merger will not result in any customer or competitor foreclosure.

PUBLIC INTEREST

[17] It was submitted that since Pioneer US and Pioneer SA will have no further operations within South Africa post-merger, the only 3 employees of Pioneer SA (being a general manager, accountant and assistant accountant), will have their employment contracts terminated. However at the hearing it was submitted that all 3 employees had since obtained employment. Thus there are no negative public interest issues arising from this deal.

CONCLUSION

[18] We therefore conclude that the proposed transaction is unlikely to substantially prevent or lessen competition in the relevant markets since there will be no change in the structure of the market both upstream and downstream as a consequence of this merger.

Yasmin Carrim

20 July 2012

Date

Norman Manoim and Andreas Wessels concurring

Tribunal Researcher:	Londiwe Senona
For the Acquiring Firm:	Edward Nathan Sonnenbergs
For the Target Firm:	Bowman Gilfillan
For the Commission:	Xolela Nokele