

WFW OBTAINS CDS SUSPENSION OF TERNA PAYMENTS FOR ATS POWER AND CVA ENERGIE

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Watson Farley & Williams (“WFW”) has obtained the suspension of payments requested by Italian electricity transmission grid operator Terna from ATS Power before the Italian Council of State (“Cds”). This injunction came just a few days after the Cds scheduled a hearing on the merits for CVA Energie on 9 February 2023, on which matter WFW is also advising them.

The dispute arose out of new prescriptive measures implemented by the Italian Regulatory Authority for Energy, Networks and Environment (“ARERA”) after a preliminary investigation initiated to ensure compliance with previous Cds rulings on electricity imbalances, on which WFW also advised ATS Power. These replaced ARERA’s original prescriptive measures which were previously annulled by the Cds, who also required ARERA to carry out a more complete assessment of the relevant market, highlighting the real impact of all electricity imbalances on the “uplift” component by means of their direct and indirect effects, particularly to determine the positive effects of those imbalances that could lead to savings in terms of supply costs for the national transmission grid operator Terna.

ATS Power and CVA Energie appealed to the Cds on a precautionary basis to request proper compliance with the aforementioned rulings and, therefore, the suspension of ARERA’s recent resolutions that led Terna to re-quantify the extent of the prescriptive measures charged to the operators.

Cds’ order no. 5716/2022 of 7 December 2022 stating that “the issues involved in the present dispute require in-depth studies incompatible with the summary nature typical of the present precautionary phase” granted their request for suspension without them to pay security.

ATS Power is a direct trader licensed to operate in Italy’s energy market exchanges. Part of CVA Group, CVA Energie is a provider of energy services in the Val D’Aosta region of northern Italy and one of the most important Italian companies active in the green energy sector.

The WFW Italy Public Law, Regulatory & Competition team that advised ATS Power and CVA Energie was led by Partner Francesco Piron and Counsel Giannalberto Mazzei, supported by Associate Cesare Fossati and Of Counsel Antonio Colavecchio.

Francesco commented: “This decision by Cds is of special significance as it implies a speedier evaluation by ARERA the interests of energy operators will be required going forward, a positive development they will certainly welcome”.

RELATED CONTACTS



GIANNALBERTO MAZZEI

PARTNER • ROME

T: +39 06 6840815
M: +39 331 4743 768

GMazzei@wfw.com



CESARE FOSSATI

SENIOR ASSOCIATE • ROME

T: +39 06 684 0581

cfossati@wfw.com

MEDIA ENQUIRIES



WILL SALOMONE

T: +44 20 3036 9847

media@wfw.com

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