

**International Centre for
Settlement of Investment Disputes**

Washington, D.C.

A dispute between

Azienda Elettrica Ticinese

and

The Federal Republic of Germany

REQUEST FOR ARBITRATION

Luther.

Luther Rechtsanwaltsgesellschaft mbH

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GERMANY

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GLOSSARY

AET	Azienda Elettrica Ticinese
Arbitration Rules	ICSID Arbitration Rules as in force since 1 July 2022
BNetzA	<i>Bundesnetzagentur</i> , the German Federal Grid Authority
BNetzA List	A List determining the order in which the remaining coal-fired power plants are being shut down from 2020 onwards, published by the BNetzA
BR-Drs.	<i>Bundesrats-Drucksache</i> , Parliamentary printing matter of the Bundesrat (second house of the German Parliament)
BT-Drs.	<i>Bundestags-Drucksache</i> , Parliamentary printing matter of the Bundestag (first house of the German Parliament)
Claimant	Azienda Elettrica Ticinese
Coal Ban Law	Law to reduce and end coal-fired power generation, in German, <i>Gesetz zur Reduzierung und zur Beendigung der Kohleverstromung (Kohleverstromungsbeendigungsgesetz)</i> of 8 August 2020, published in Bundesgesetzblatt I 2020, Nr. 37, 13 August 2020, pp 1818 et seqq.
Coal Commission	Commission on Growth, Structural Change and Employment, in German, the <i>Kommission "Wachstum, Strukturwandel und Beschäftigung"</i>
Consortium Agreement	Agreement signed by the Partner Companies to pursue the aim of building the Lünen Plant
ECT	Energy Charter Treaty, Lisbon, 17 December 1994, UNTS 2080, 95
ETS	Emission Trading System of the EU
EU	European Union
FET	Fair and Equitable Treatment
Germany	The Federal Republic of Germany
ICSID	International Centre for Settlement of Investment Disputes
ICSID Convention	Convention on the Settlement of Investment Disputes between States and Nationals of Other States, Washington, D.C., 18 March 1965, 575 UNTS 159
Institution Rules	The ICSID Institution Rules as in force since 1 July 2022
Lünen plant	The Coal-Fired Power Plant in Lünen, Germany
MCPS	Most Constant Protection and Security
Partner Companies	The Municipal Utilities other than Claimant that own shares in TKL, see Annex for the current shareholder list
Partnership Agreement	2006 Agreement between the Partner Companies establishing TKL
Respondent	Federal Republic of Germany
TKL	Trianel Kohlekraftwerk Lünen GmbH & Co. KG
World Bank	International Bank for Reconstruction and Development

REQUEST FOR ARBITRATION

- 1 In accordance with Article 36 of the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (the “**ICSID Convention**”),¹ the Swiss company Azienda Elettrica Ticinese (“**AET**” or “**Claimant**”) hereby respectfully submits this Request for Arbitration (the “**Request**”) to the International Centre for Settlement of Investment Disputes (“**ICSID**”), and respectfully requests that the Secretary-General register this arbitration against the Federal Republic of Germany (“**Germany**” or “**Respondent**”).

- 2 The dispute arises out of Claimant’s investments in the new coal-fired power plant Lünen (“**Lünen plant**”) and in *Trianel Kohlekraftwerk Lünen GmbH & Co. KG* (“**TKL**”), the direct owner of the Lünen plant. It relates to Respondent’s 2020 decision to prohibit the production of energy by firing coal without any financial compensation to the owners of the affected power plants. The Lünen plant will be shut down before it will have even repaid its financial debt, preventing Claimant from both re-earning its investment as well as from making any profits on its investment. The damage caused to Claimant has been provisionally calculated to exceed Rule 66(f), excluding interest.

- 3 The dispute is neither about the existence of climate change and its consequences, nor is it about contesting the need to reduce CO2 emissions or even the right in principle to prohibit the firing of coal. It is about the very basic question of who should bear the financial consequence after a fundamental change of policy: Should it be
 - the State, who claims to act for the public benefit, and achieves its goal of CO2 reduction at no cost to itself (but only to the foreign investor), or
 - the foreign investor, who has relied on promises, policy statements, and permits when deciding to invest millions in one of the most modern coal fired power plants in Europe?

- 4 This is not a political, but a purely legal dispute. If a State forces an investor to sacrifice its lawful investment for the public benefit, then the State has to pay compensation. This is a tenet not only of the Energy Charter Treaty (“**ECT**”)², but of investment protection in general. And Respondent has not complied with that principle. Claimant does not ask the Tribunal to create law, but merely to apply it.

¹ [Exhibit CLA-0001: ICSID Convention, Regulation and Rules.](#)

² [Exhibit CLA-0002: Energy Charter Treaty](#)

5 The Request is structured as follows: In Section **A**, Claimants describe the parties to the dispute. Section **B** contains a brief summary of the facts underlying the dispute. Section **C** discusses and explains the claims pursued in this Arbitration. ICSID's jurisdiction is addressed in Section **D**. In Section **E**, Claimants give a preliminary indication of the relief sought. Sections **F** and **G** address the constitution of the Tribunal and miscellaneous issues.

A. The Parties

I. Claimants

6 AET is a legal entity under public law (*società a capitale pubblico*) organized under the laws of Switzerland with its address in El Stradùn 74, 6513 Monte Carasso, Bellinzona, Ticino, Switzerland.³ It is 100%-owned by the Canton of Ticino (one of the 26 Cantons of which the Swiss Confederation is composed). All communication in this matter is to be directed to its legal representatives identified below. Merely for the sake of completeness, AET can be reached via phone at Rule 66(f) and via email at Rule 66(f).

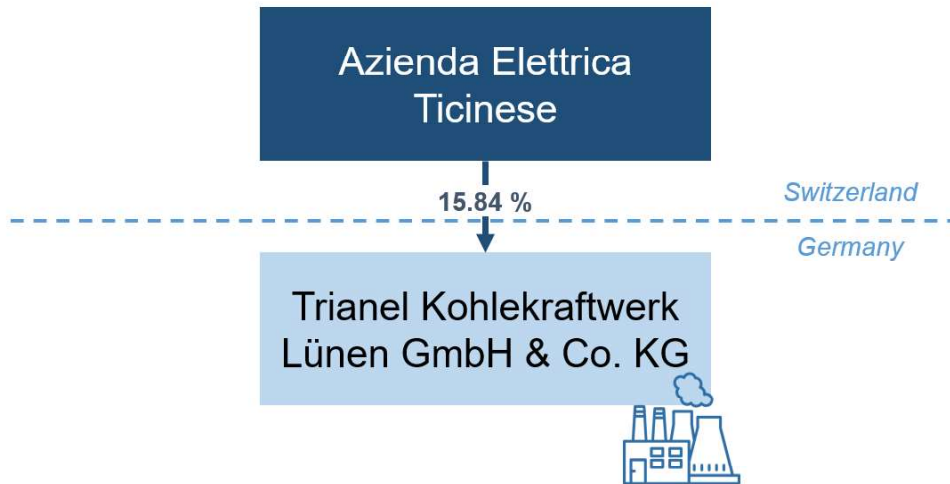
7 AET is a producer and seller of electricity active on its Swiss home market as well as on the markets of other European countries such as Germany, Italy and France. AET predominantly uses Ticino's natural resources to generate renewable energy. More than a third of Ticino's hydropower is managed by AET on behalf of the Canton. In the 2022 financial year, AET, with its about 300 employees, generated a turnover of CHF 1,109 million.⁴

8 AET's conventional energy business in Germany is concentrated in AET's 15.84 % direct participation in TKL.⁵ The corporate structure of its investment in Germany is as follows:

³ [Exhibit C-0001: Commercial Register for AET](#); and Article 1 of AET's Law of 10 May 2016 (*Legge sull'Azienda elettrica ticinese del 10 maggio 2016*) available [here](#) (last accessed on 29 September 2023).

⁴ See [AET's Website](#) (last accessed on 29 September 2023).

⁵ [Exhibit C-0002: Commercial Register for TKL](#)



9 Claimants have duly authorized the institution of these proceedings⁶ and appointed Luther Rechtsanwaltsgesellschaft mbH as their legal representatives⁷. They will be represented in this arbitration by:

*Luther Rechtsanwaltsgesellschaft mbH
Dr Richard Happ and Tim Rauschnig*

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] Rule 66(f)
[REDACTED]
[REDACTED]
[REDACTED]

II. Respondent

10 Germany is Respondent in this Arbitration. Respondent is and has always been represented in ICSID proceedings by its Federal Ministry of Economics and Climate Protection (in German, the *Bundesministerium für Wirtschaft und Klimaschutz* - BMWK). Hence, to the best of Claimants' knowledge, this Request may be served on Respondent on the following address:

*Bundesministerium für Wirtschaft und Klimaschutz
Scharnhorststraße 34 – 37
11019 Berlin
Germany / Deutschland
Phone: + 49 30 18 615 0
Email: info@bmwk.bund.de*

⁶ [Exhibit C-0003: Authorisation of the Proceedings by AET](#)

⁷ [Exhibit C-0004: Power of Attorney by AET to Luther](#)

B. Summary of the Dispute

I. Introduction

11 The Lünen power plant is one of the most modern in Europe. After Germany's first decision to phase out of nuclear power in 2002, Germany actively and openly called for investments in new coal-fired power plants. Germany wanted to replace its outdated fleet of coal-fired plants with newer and more efficient ones in order to reduce CO₂ emissions significantly and, at the same time, secure a stable energy supply (II).

12 Based on these calls for the construction of new coal-fired power plants by the German government, Claimant, together with its partners, started planning and building the Lünen plant for about € 1.4 billion (III). During the construction phase, Germany continued to reaffirm its need and desire for new coal-fired power plants. This changed only after the Lünen plant was commissioned in 2015. Thereafter, Germany adopted a CO₂ reduction path and established a "Coal Commission" tasked with establishing a shutdown path for banning coal-fired power generation (IV).

13 Following these events, in 2020, Germany enacted the *Kohleverstromungsbeendigungsgesetz* ("**Coal Ban Law**")⁸ which mandated the phased ban of coal-fired electricity generation until 2038 (V) – with an age-based shut-down path resulting in the shutdown of the Lünen plant in 2031.⁹ Moreover, the Coal Ban Law does not foresee any kind of compensation or indemnification for Claimant.

14 The shutdown leads to serious damage for Claimant's investment. The early shut-down means that the shareholders will not be able to re-earn their investment, let alone any profits. This already now has led to serious damages for Claimants' share, provisionally calculated to be **in excess of** [REDACTED] Rule 66(f), plus interest (VI).

II. In the early 2000s, Germany wanted and encouraged investors to build new coal-fired power plants

15 In the 2000s, Germany was concerned about the security of its energy supply. It had in 2002 decided to phase out nuclear power plants, which supplied 30 % of Germany's electricity, in particular as base load capacity (i.e., capacity which needs to run almost always and not only at times of peak demand). Therefore,

⁸ [Exhibit C-0005: Coal Ban Law \(Kohleausstiegsgesetz, KVBG\)](#)

⁹ Due to voluntary early shutdowns of other plants (including plants newer than the Lünen plant) after the enactment of the Coal Ban Law, the age-based shut-down path now results in an envisaged shut-down of the Lünen plant in 2032.

despite the development of renewable energy sources, the need for coal-fired power plants to ensure the security of supply was a consistent message by consecutive German governments.

- 16 In 2003, the Minister for Economic Affairs explained that coal-fired power plants would be needed, in particular, to meet the base load demand:

“The discussion about the security of power supply this summer has shown the importance of a broad energy mix. [...] There must be no favouritism. [...] It’s a plea for speaking plainly. Wind energy is not suitable to cover the base load. For that, we need coal, which currently generates about 50% of our electricity.”¹⁰

- 17 Also, then-Chancellor Gerhard Schröder emphasised that “we cannot and we do not want to phase out coal” and that “environmentally friendly hard coal-fired and lignite-fired power plants will continue to be the backbone of the German power supply for many years to come.”¹¹

- 18 Former Minister of Economic Affairs Werner Müller had moreover cautioned that phasing out coal, in addition to nuclear energy, would “dangerously” increase the dependence on natural gas and, thus, further increase the risks for the security of supply and of increasing prices.¹² Reliance on natural gas, which – unlike coal – was and is only supplied by a limited number of countries with largely unstable or undemocratic governments, was considered to pose risks for the security of supply. This includes Russia. Conversely, coal was widely available and thus deemed better suited to protect Germany’s energy supply.¹³ The developments of last year, with the stop of Russian gas supplies, demonstrated with high importance of a secure energy supply and the risks posed by the dependence on Russian gas.

¹⁰ [Exhibit C-0006: Minister of Economic Affairs Wolfgang Clement, Speech Energy Conference of Bündnis 90Die Grünen, Bulletin of the German Federal Government Nr. 80-3 of 29 September 2003](#), p. 4, 3rd and 4th paragraphs (emphasis added).

¹¹ [Exhibit C-0007: Chancellor Gerhard Schröder, Speech German Hard Coal Day, Bulletin of the German Federal Government Nr. 101-1 of 11 November 2003](#), p. 7.

¹² Minister of Economic Affairs Dr Werner Müller, Speech at the conference “*Die Zukunft der Energiewirtschaft*” (The Future of the Energy Industry), Bulletin of the German Federal Government Nr. 22-2 of 19 March 2002, p. 7, available [here](#); Minister of Economic Affairs Dr Werner Müller, Speech at the 100th anniversary of *Lech Elektrizitätswerke*, Bulletin of the German Federal Government Nr. 68-2 of 11 October 2001, pp. 8-9, available [here](#).

¹³ See [Exhibit C-0008: Minister of Economic Affairs Michael Glos, Speech at the 13th Handelsblatt Annual Energy Sector Conference, Bulletin of the German Federal Government Nr. 03-2 of 17 January 2006](#), pp. 3-4, 6-7.

19 In line with the above, Chancellor Schröder announced in a 2005 government statement, an energy policy which, “*first, is based on coal and coal products*”.¹⁴

20 This policy was also continued by Angela Merkel, when she succeeded Mr Schröder as Chancellor in 2005. Chancellor Merkel herself resumed to actively defend the construction of new coal-fired power plants in subsequent years. She advocated for a broad energy mix that would encompass coal and against demonising coal-fired power plants.¹⁵

21 German government officials even expressly called on the energy industry to build new coal-fired power plants in order to renew Germany’s ageing fleet of coal-fired power plants, considering this even to be an obligation of the energy companies:

“I would like to see reliable commitments from the companies involved as to what investments in highly efficient fossil-fuelled power plants and networks will actually be realised. Those who are considering the transfer of electricity volumes may not expect policy makers to release the large power generating companies from their obligation to modernise the outdated fossil-fuelled power plants by building highly efficient coal-fired and gas-fired plants.”¹⁶

22 Moreover, in 2007, the replacement of the existing, outdated German coal-fired power plant fleet with newer ones became a key element of Germany’s integrated energy and climate program. This program implemented a decision of the European Council on a European climate and energy policy which set out ambitious climate protection targets.¹⁷ In the same year, Germany had adopted its “Climate Agenda 2020” whose first key element was the replacement of old power plants, in particular with highly efficient coal-fired power plants.¹⁸

“Since 1999, the emissions in this [i.e. energy] sector have increased by over 30 million tons. Therefore, the modernisation of the power plant portfolio is of crucial importance. Many plants are at the end of their lives

14 [Exhibit C-0009: Chancellor Gerhard Schröder, Government Statement, Bulletin of the German Federal Government Nr. 72-1 of 7 September 2005](#), p. 3 (emphasis added).

15 Chancellor Dr Angela Merkel, Speech at the Day of German Family Businesses, Bulletin of the German Federal Government Nr. 70-2 of 23 June 2008, p. 18-19, available [here](#); Chancellor Dr Angela Merkel, Speech at the German Hard Coal Day, Bulletin of the German Federal Government Nr. 121-2 of 6 November 2007, p. 9, available [here](#).

16 [Exhibit C-0008: Minister of Economic Affairs Michael Glos, Speech at the 13th Handelsblatt Annual Energy Sector Conference, Bulletin of the German Federal Government Nr. 03-2 of 17 January 2006](#), p. 4.

17 [Exhibit C-0010: German Cabinet, Main Pillars of an Integrated Energy and Climate Program \(Eckpunkte für ein integriertes Energie- und Klimaprogramm\), 23/24 August 2007](#), para. 13.

18 [Exhibit C-0011: German Federal Ministry for the Environment, Climate Agenda 2020 Restructuring Industrial Society, 1 Apr 2007](#), p. 3.

and must be replaced. [...] The emission reductions in the power plant sector will be achieved with higher efficiencies of the new coal-fired power plants and the addition of natural gas power plants. The central tool for this is emissions trading. [...]

23 In a 2007 government statement, Minister for the Environment Gabriel further observed that the replacement of older plants would bring “*massive relief for climate protection*”. He further explained that CO₂ emissions and, therewith, also the number of coal-fired power plants would be regulated through the limited number of emission rights in the EU Emission Trading System (“**ETS**”).¹⁹

24 In line with this statement, it must be stressed that the German government had, at all times, been very aware that a stable investment environment was a key element for coal-fired power plant operators when considering an investment. Chancellor Merkel emphasised the importance of the construction of new coal-fired power plants for the future of Germany in a 2008 speech and highlighted the long-term nature of energy policy due to the enormous investments required:

“We know that such investments don’t come cheap, in this present case, the investment is 2 billion euros. But I am convinced that the innovation and the investment in our future will pay off in the coming years and decades, because energy policy is a very long-term policy.”²⁰

25 Beyond that, the German government highlighted that the ETS provided a clear framework for investment security and that it would not enforce a particular energy mix, but that the energy mix would be determined by market forces as well as the mechanics of the ETS.²¹

III. Together with its Partner Companies, Claimant builds the Lünen plant

26 In its Ticino home market, AET produces electricity primarily from hydroelectric power plants, mainly providing electricity during peak-load demand. Base-load capacity in Switzerland is mainly supplied by nuclear power plants. AET has been unable to participate in such plants due to the reluctance of its direct competitors in the Swiss market to offer such participation opportunities. In order to secure the energy supply in Ticino and to avoid / mitigate the financial risks of buying

¹⁹ [Exhibit C-0012: Minister of the Environment Sigmar Gabriel, Government Statement, Bulletin of the German Federal Government Nr. 46-1 of 26 April 2007](#), p. 9.

²⁰ [Exhibit C-0013: Chancellor Dr Angela Merkel, Speech at the foundation stone ceremony for blocks D and E of the Westfalen power plant, Bulletin of the German Federal Government Nr. 86-1 of 29 August 2008](#) (emphasis added), p. 1.

²¹ [Exhibit C-0011: German Federal Ministry for the Environment, Climate Agenda 2020 Restructuring Industrial Society, 1 Apr 2007](#) p. 3; Minister for the Environment Sigmar Gabriel, Speech in Parliament (*Bundestag*), Bulletin of the German Federal Government Nr. 03-1 of 17 January 2008, p. 3, available [here](#).

base-load electricity at variable market prices, Claimant explored investment opportunities in other generation technologies in and outside Switzerland.

- 27 Given Germany's clear position to replace its nuclear power plants as well as aging power plant fleet in general with highly efficient coal-fired power plants, AET, in 2006, decided to invest in the building and operating of the Lünen coal-fired power plant. Therefore, together with other municipal energy utilities (the "**Partner Companies**", see Annex for the current shareholder list), it established the project company TKL.
- 28 TKL is a limited partnership (*Kommanditgesellschaft*) with a company with limited liability (*GmbH*) as general partner. AET contributed EUR 23,433,611.40 to TKL's total share capital of EUR 147,944,200.00. One fifth of that sum, EUR 4,686,722.28, became the amount with which AET was liable towards third parties.²²
- 29 Following TKL's application on 27 February 2007, the district government (*Bezirksregierung*) of Arnsberg issued a First Partial Permit (*Erste Teilgenehmigung*) and an Advance Decision (*Vorbescheid*) under sections 8 and 9 of the Federal Emission Protection Act (*Bundesimmissionsschutzgesetz* or *BImSchG*) for the construction and operation of the Lünen plant on 6 May 2008.
- 30 By granting these decisions, the competent authorities concluded that the Lünen plant *prima facie* fulfilled all permitting requirements. With the Advance Decision, TKL was moreover able to obtain a favourable decision on important permitting requirements prior to the full permit being issued. Namely, the district government of Arnsberg determined that the location of the Lünen plant was suitable and that the plant could be approved under German environmental and emission control laws.
- 31 On this basis, on 8 May 2008, the shareholders of TKL decided unanimously to initiate the construction of the Lünen plant. With a participation of 15.84 %, AET was one of the two largest shareholders in TKL. [REDACTED]

[REDACTED]
Rule 66(f)
[REDACTED]
[REDACTED]

²² See [Exhibit C-0002: Commercial Register for TKL](#). Pursuant to sec. 172 HGB (German Commercial Code), "*the amount of contribution for which a limited partner is liable towards third parties will be determined, after entry in the Commercial Register, by such amount as is stated in the entry.*"

²³ Section 1(2) of the 2006 and 2008 Consortium Agreements.



V. Once the Plant was commissioned, Germany fundamentally changed course and decided to ban coal-fired power plants

36 Only five years after the Plant's commissioning, Germany fundamentally changed its energy policy. In particular, on 6 June 2018, Germany established a commission tasked with drafting a plan to phase-out coal-fired power generation, i.e. the Commission on Growth, Structural Change and Employment (*Kommission "Wachstum, Strukturwandel und Beschäftigung"*, the "**Coal Commission**").

37 In its January 2019 Final Report, the Coal Commission concluded that coal-fired power generation should be prohibited after 2038.²⁴ As intermediary targets for the capacity of power plants active in the market, it proposed:²⁵

- a reduction to 15 GW for lignite- and 15 GW for hard coal-fired plants by 2022; and
- a reduction to 9 GW for lignite- and 8 GW for hard coal-fired plants by 2030.

38 A further tightening of this "shutdown path" is possible since the Coal Commission recommended reviews in 2026, 2029 and 2032.²⁶ It is also to be assessed whether the complete ban can be brought forward from 2038 to 2035.²⁷

²⁴ [Exhibit C-0014: Final Report of the Coal Commission, January 2019](#), p. 64.

²⁵ [Exhibit C-0014: Final Report of the Coal Commission, January 2019](#), pp. 62-63.

²⁶ [Exhibit C-0014: Final Report of the Coal Commission, January 2019](#), p. 63.

²⁷ [Exhibit C-0014: Final Report of the Coal Commission, January 2019](#), p. 64.

39 For lignite-fired power plants, the Coal Commission envisaged this phase-out to be realised primarily through agreements with the affected companies.²⁸ For hard coal-fired plants, the Coal Commission suggested to offer premiums through a tender process for closures between 2023 and 2030 with decreasing compensation the later the closure occurs. This degeneration of the compensation should however not apply to power plants younger than 25 years when shut down.²⁹

VI. Pursuant to the Coal Ban Law, Lünen will be forced to shut down after less than half of its expected minimum lifetime

40 On 31 January 2020 and 24 February 2020, the Germany government introduced the Coal Ban Law, into the two chambers of the German Parliament, *Bundesrat* and *Bundestag*, respectively.³⁰ Both chambers adopted the Coal Ban Law on 3 July 2020.³¹ The Coal Ban Law generally follows the recommendations made by the Coal Commission. However, under the law, hard coal-fired power plants are forced to shut down earlier (and even without compensation) than the older and more polluting lignite-fired power plants.

41 Sections 2(2) and 4 provide that latest by the end of 2038, coal (both hard coal and lignite) may no longer be used to generate electricity in Germany and, for the period up to 2038, sets the above-mentioned intermediary targets for 2022 and 2030. According to sections 54 and 56 of the Coal Ban Law, the government will review on 15 August 2026, 2029, and 2032 whether the end date of the shut down path can be moved forward by three years to 2035.

42 For lignite-fired power plants, the shutdown path is set in accordance with an agreement reached by the government with the sector. This agreement provides the operators of German lignite plants with over EUR 4 billion in compensation (see section 44 of the Coal Ban Law). For the years in-between the above-mentioned target years 2022, 2030 and 2038 (see para. 37), the remaining capacity of hard coal-fired power plants permitted in the market is calculated as the difference between the (i) linearly decreased capacity between the target years and (ii) the remaining lignite capacity agreed with the industry. This results in an

28 [Exhibit C-0014: Final Report of the Coal Commission, January 2019](#), p. 62.

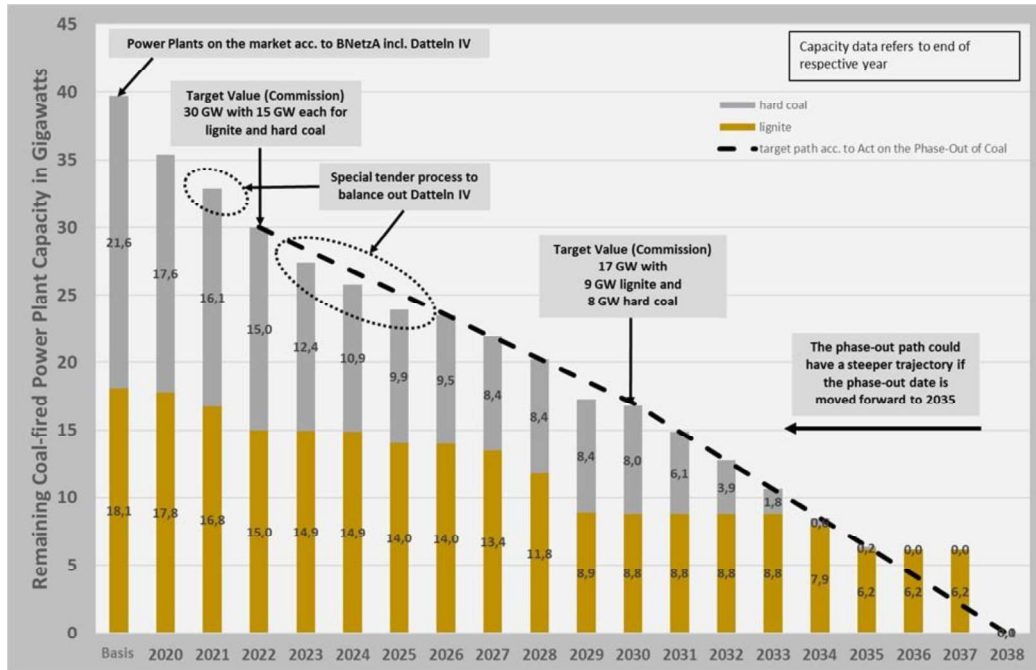
29 [Exhibit C-0014: Final Report of the Coal Commission, January 2019](#), p. 63.

30 Draft of a Law Reducing and Ending the Use of Coal for the Generation of Electricity, [BR-Drs. 51/20](#), 31 January 2020; Draft of a Law Reducing and Ending the Use of Coal for the Generation of Electricity, [BT-Drs. 19/17342](#), 24 February 2020.

31 Parliamentary Process of the Coal Ban Law: Deutscher Bundestag, Gesetz zur Reduzierung und zur Beendigung der Kohleverstromung und zur Änderung weiterer Gesetze (*Kohleausstiegsgesetz*), available [here](#).

accelerated exit path for hard coal power plants (as shown in the chart pictured below).

- 43 On this basis, the German Ministry for the Environment has created the following figure showing the shut-down pathways:³²



- 44 For hard coal-fired power plants, the reductions up to 2026 are to be achieved primarily through a tender process offering compensation for the early shut down of power plants. In these auctions, operators bid the amounts of compensation per MW of installed capacity for which they would be willing to shut down one or more hard coal-fired power plants already prior to a forced shutdown. The compensation that can be requested is limited by specified maximum amounts per MW of installed capacity. The maximum amount decreases each year. While the Coal Commission had recommended that this degression does not apply to power plants which are less than 25 years old at the time of their shutdown,³³ the Coal Ban Law does not provide for such a distinction.

- 45 To obtain this compensation, TKL would have had to shut down the Plant even earlier than mandatorily required under the Coal Ban Law and, thus, forego all revenues for the period from the voluntary shutdown to the mandatory one. As compensation, it would only receive a compensation of max. 4 % to 9 % of the initially invested EUR 1.4 billion depending on the timing of shut down and on the

³² Federal Ministry for the Environment, Nature Conservation, Nuclear Safety and Consumer Protection, 'Frequently Asked Questions on Germany's coal phase-out', available [here](#).

³³ [Exhibit C-0014: Final Report of the Coal Commission, January 2019](#), p. 63.

auction results. No compensation would however be obtained for the value lost due to the mandatory early shutdown.

46 Already as of 2027 (and not only 2030, as recommended by the Coal Commission), power plants will be shut down by administrative act based on their age, the oldest plants being shut down first.³⁴ No compensation will be provided for these shutdowns. This age-based shutdown sequence is determined and published by the German Federal Grid Authority (*Bundesnetzagentur*, the “**BNetzA**”) in a legally binding list (the “**BNetzA List**”).³⁵ While the list is legally binding, the actual shutdowns will be carried out through separate, individual administrative acts.³⁶

47 For the Lünen plant, the foreseen shutdown path means that it will be shut down without compensation after less than half of its expected lifetime of at least 40 years.³⁷ Although the government acknowledges that, unlike older plants, new power plants, such as the Lünen plant, will not yet be amortised, it also does not consider it necessary to provide compensation for these plants. Moreover, the German government does not even appear to have assessed the particular economic impact on these newer plants and has not provided any reasoning as to why the infringement would be proportionate also for these newer plants.

48 In its explanatory memorandum to the Coal Ban Law, the German government simply reasons that, from a German constitutional law perspective, no compensation for forced shutdowns of coal-fired power plants would be required.³⁸ The government does not assess the question from an international law perspective.

VII. The Coal-Ban Law causes Claimant damages in excess of Rule 66(f)

49 The Coal Ban Law causes substantial damages to Claimant. It completely destroys all value of the investment to Claimant. The operation of the power plant over such a short period will cause a significant loss to Claimant: By the time the Lünen plant will be shut down due to the Coal Ban Law, AET will not even have been able to recoup its investment. Rather, due to the forced shut down prior to

³⁴ Sections 33, 35, 51 of the Coal Ban Law ([Exhibit C-0005](#)).

³⁵ Explanatory Memorandum to the Coal Ban Law, [BT-Drs. 19/17342](#), explanation to section 29(5), p. 130.

³⁶ Sections 34 and 35 of the Coal Ban Law ([Exhibit C-0005](#)).

³⁷ The Lünen plant was commissioned in 2013. Upon adoption of the Coal Ban Law, it was expected that the Lünen plant would be forced to shut down in 2031, i.e., after 18 of its at least 40-year lifetime. Due to voluntary early closures of other power plants, the forced shutdown of the Lünen plant is today expected for 2032.

the end of the financing agreement, AET will have made additional payments in order to cover the outstanding loan payments between the shutdown and the end of the [Redacted] Rule 66(f)

50 Given the existing [Redacted] Rule 66(f) the Plant's lifetime after this initial [Redacted] Rule 66(f) period had always been particularly important for AET and its Partner Companies. During this period, the principal return on the investments made was to be generated ("golden period") and compensate any potential losses suffered during the first [Redacted] Rule 66(f) of operation. Respondent's Coal Ban Law has now completely deprived Claimant's investment of the value associated with this period and, thus, deprived the investment of all value.

51 The damages for Claimant resulting from the Coal Ban Law have been provisionally calculated to exceed [Redacted] Rule 66(f) plus interest.

C. The Coal Ban Law breaches the Energy Charter Treaty

52 The Coal Ban Law constitutes a breach of Germany's obligations under Part III of the ECT. According to its Article 2, the purpose of the ECT is to establish:

"A legal framework in order to promote long-term cooperation in the energy field, based on complementarities and mutual benefits, in accordance with the objectives and principles of the Charter."

53 Tribunals have therefore unanimously agreed that the obligations contained in Part III are to be interpreted in light of this purpose and that stability and transparency are core elements of the protection under the ECT.

54 Respondent's breaches are summarized in the following:

I. Germany breached Article 13 ECT by expropriating Claimant's investments without prompt, adequate and effective compensation

55 Respondent has breached Article 13(1) ECT. Pursuant to this provision, Respondent is not allowed to expropriate, either directly or indirectly, Claimant's investments unless the expropriation is: (i) for a purpose which is in the public interest; (ii) not discriminatory, (iii) carried out under due process of law; and (iv) accompanied by the payment of prompt, adequate and effective compensation.

56 The ECT contains a broad definition of "investment", covering not only the Lünen plant, its operating company TKL and the shares held therein (Article 1(6)(b) ECT), but also the permits granted for Lünen (Article 1(6)(f) ECT). AET made a protected investment pursuant to Article 1(6)(b) ECT by acquiring 15.84 % of the shares in TKL. Furthermore, the linking of the shares to the [Redacted] 66(f) is akin to AET controlling its share of the Plant as if it was AET's own power plant.

57 These investments were indirectly expropriated through the Coal Ban Law because Lünen must cease to operate in the near future. As explained, the Lünen plant will have to stop operating before Claimant can even start recouping its investment. This destroys the economic value of Claimant’s investments. Neither the permits, nor the Plant, its operating company or the shares therein have any use or value for Claimant without the possibility to generate energy by burning coal. The Coal Ban Law thus deprives Claimant of the value as well as the use of its investments.

58 Germany did not provide prompt, adequate and effective compensation; in fact, Germany did not provide any compensation at all. Compensation is only available for plants shutting down before reaching their respective date of compulsory shut-down. This compensation would only compensate for the even earlier closure and would only cover a small part of the sum initially invested in the plant. Moreover, due to the liability towards the financing banks, the financial damage suffered by Claimant would be even larger than the financial damage due to the shorter operating lifetime of the Plant as such.

II. Germany breached its obligation to treat Claimant’s investment fairly and equitably (Article 10(1) ECT)

59 By enacting the Coal Ban Law, Germany has breached its obligation to provide a stable and predictable framework for Claimant’s investment and therefore violated the ECT’s Fair and Equitable Treatment (“FET”) standard.

60 Article 10(1) ECT requires Respondent to treat investments of foreign investors fairly and equitably. In light of Article 2 ECT, which sets out the ECT’s object and purpose and refers to the European Energy Charter, tribunals have declared that stability and transparency are core elements of the protection offered by the ECT in general and the FET standard in particular.

61 The tribunal in *Eiser v. Spain* concluded that the stability guaranteed by the ECT means that “regulatory regimes cannot be radically altered as applied to existing investments in ways that deprive investors who invested in reliance on those regimes of their investment’s value.”³⁹ This finding was reaffirmed by other

³⁹ *Eiser Infrastructure Limited et al. v. Spain*, ICSID Case No. ARB13/36, Award, 4 May 2017, para. 382.

tribunals.⁴⁰ It is also in line with the decisions of other tribunals – under the ECT as well as under other investment treaties.⁴¹

62 However, by enacting the Coal Ban Law, Germany did just that. It fundamentally changed the legal framework existing at the time of AET's investment and, thereby, failed to provide a stable and consistent legal framework.

63 Because Germany's coal-fired power plant fleet was outdated, at the time of AET's investment German Ministers and Chancellors repeatedly had called for the modernization of these plants and even opined that energy producers had an "obligation" to replace old coal-fired plants with newer ones.⁴² State-of-the-art coal-fired power plants were an important part of the official energy strategy of the German government at the time.⁴³ Furthermore, the German government knew of the importance to provide a stable investment environment and expressly noted that it was "*not the task of the federal government to determine the energy mix in 2020 through dirigiste intervention*", given the existence of the ETS.⁴⁴

64 Responding to these calls from Respondent, Claimant decided to invest in the Lünen plant. TKL obtained all the necessary permits to operate the Plant and eventually built a highly efficient coal-fired power plant. However, shortly after the commission of the Plant in 2013, Germany did exactly what it had promised not to do: By adopting the Coal Ban Law, Germany intervened in the energy sector and determined the energy mix by prohibiting electricity generation by the burning of coal, thereby depriving AET of the foundations of its investment.

65 Completely prohibiting a previously not only specifically approved but even desired and encouraged economic activity constitutes the most fundamental change imaginable. Germany enacted the Coal Ban Law while being fully aware

⁴⁰ See, e.g., *RREEF Infrastructure (G.P.) Limited and RREEF Pan-European Infrastructure Two Lux S.à r.l. v. Kingdom of Spain*, ICSID Case No. ARB/13/30, Decision on Responsibility and on the Principles of Quantum, 30 November 2018, paras 315-316; *Silver Ridge Power BV v. Italian Republic*, ICSID Case No. ARB/15/37, Award, 26 February 2021, para. 416.

⁴¹ See, e.g., *Charanne and Construction Investments v. Spain*, SCC Case No. V 062/2012, Award, 21 January 2016, para. 517; *AES Corporation and Tau Power B.V. v. Republic of Kazakhstan*, ICSID Case No. ARB/10/16, Award, 1 November 2013, para. 258

⁴² [Exhibit C-0008: Minister of Economic Affairs Michael Glos, Speech at the 13th Handelsblatt Annual Energy Sector Conference, Bulletin of the German Federal Government Nr. 03-2 of 17 January 2006](#), p. 4.

⁴³ [Exhibit C-0010: German Cabinet, Main Pillars of an Integrated Energy and Climate Program \(Eckpunkte für ein integriertes Energie- und Klimaprogramm\), 23/24 August 2007](#), para. 13.

⁴⁴ [Exhibit C-0011: German Federal Ministry for the Environment, Climate Agenda 2020 Restructuring Industrial Society, 1 Apr 2007](#), p. 3.

that investors like AET had invested billions in the construction of state-of-the-art coal-fired power plants with an expected lifetime of at least 40 years only shortly before. This is a breach of the most essential guarantee of the ECT, namely the guarantee of providing stable conditions for investments.

III. Germany failed to provide most constant protection and security (Article 10(1)(3) ECT)

66 Respondent also failed to provide Claimant most constant protection and security (“**MCPS**”) in accordance with Article 10(1)(3) ECT. The MCPS standard obliges Germany to provide physical as well as legal protection and security to AET and its investments. This standard is breached when a state totally destroys the legal framework applicable to an investment, which Germany did in the present case.

67 By prohibiting coal-fired electricity generation, Germany entirely destroyed the basis of AET’s investment without providing the required compensation for the infringement on AET’s property. Moreover, while Germany reserved the option to provide compensation at a later stage, the uncertainty about whether a compensation will be granted may, in the present case, not only last for two years (which the *National Grid* tribunal considered to be excessive⁴⁵), but for almost a decade, until 2029.⁴⁶

IV. The Coal Ban Law discriminates against new, highly efficient coal-fired power plants such as the Lünen plant

68 The ECT sets out a general prohibition of discriminatory measures and does not only prohibit discrimination based on nationality. The Coal Ban Law discriminates against new, highly efficient coal-fired power plants such as the Lünen plant.

69 The Coal Ban Law treats new, highly efficient power plants less favourable than old, polluting power plants. It provides old, amortised power plants with compensation while new power plants can only benefit from this possibility if they accept a compensation much below their investment costs. The Coal Commission had already highlighted this problem and also the government acknowledged this in its Explanatory Memorandum. Yet, Germany decided not to take this into

⁴⁵ *National Grid plc v. The Argentine Republic*, UNCITRAL, Award, 3 November 2008, para. 189.

⁴⁶ See section 54(2) of the Coal Ban Law ([Exhibit C-0005](#)).

account. Accordingly, the Coal Ban Law does not remedy this difference in treatment.⁴⁷

V. The Coal Ban Law constitutes an unreasonable measure

70 The Coal Ban Law was an unreasonable measure since Germany failed to consider the measure's economic impact on new, highly efficient coal-fired power plants.

71 In order to be reasonable, a measure must pursue a rational policy objective and must be proportionate to the aim pursued:

"There are two elements that require to be analyzed to determine whether a state's act was unreasonable: the existence of a rational policy; and the reasonableness of the act of the state in relation to the policy.

A rational policy is taken by a state following a logical (good sense) explanation and with the aim of addressing a public interest matter.

*Nevertheless, a rational policy is not enough to justify all the measures taken by a state in its name. A challenged measure must also be reasonable. That is, there needs to be an appropriate correlation between the state's public policy objective and the measure adopted to achieve it. This has to do with the nature of the measure and the way it is implemented.*⁴⁸

72 The second element of this test also requires a state to consider the burden inflicted upon investors, as the tribunal in *Hydro Energy v. Spain* explains:

*"Reasonableness means that 'the State's conduct bears a reasonable relationship to some rational policy.' But that alone is not sufficient. In *Micula v. Romania*, the tribunal said:*

*(...) for a state's conduct to be reasonable, it is not sufficient that it be related to a rational policy; it is also necessary that, in the implementation of that policy, the state's acts have been appropriately tailored to the pursuit of that rational policy with due regard for the consequences imposed on investors.*⁴⁹

⁴⁷ This discriminatory treatment can also not be remedied through the review clause in Article 54(2) of the Coal Ban Law ([Exhibit C-0005](#)) since the provision leaves unclear whether investors like AET will be compensated and, if so, when and to what extent.

⁴⁸ *AES Summit Generation Limited and AES-Tisza Erömü Kft. V. Republic of Hungary*, ICSID Case No. ARB/07/22, Award 23 September 2010, paras. 10.3.7-9 (emphasis added); Other tribunals and authors support this definition: *Saluka Investments BV v. Czech Republic*, UNCITRAL, Partial Award, 17 March 2006, paras. 460 – 461; Heiskanen, 'Unreasonable or Discriminatory Measures as a cause of action under the ECT' (2007) *International Arbitration Law Review*, Vol. 10, Issue 3, p. 110.

⁴⁹ *Hydro Energy 1 S.à.r.l and Hydroxana Sweden AB v. Kingdom of Spain*, ICSID Case No. ARB/15/42, Decision on Jurisdiction, Liability and Directions on Quantum, 9 March 2020, para. 569, citing *Ioan Micula, Viorel micola and others v. Republic of Romania*, ICSID Case No. ARB/05/20, Award, 11 December 2013, para. 525.

73 Germany, however, did not consider the effects of the Coal Ban Law on new coal-fired power plants (i.e., those constructed post-2010) despite being aware that these plants' situation was different from the situation of the pre-2010 ones, e. g. concerning the plants' amortization.

74 Furthermore, the Coal Ban Law does not take into account that it was the German government which actively called for the construction of new coal-fired power plants. As the tribunal in *Watkins Holdings v. Spain* explained, fundamental changes to the legal framework after the desired investments have been made is by definition unreasonable:

"The Tribunal in order to determine if Spain's measures are unreasonable, must identify a rational policy goal and it must then demonstrate that these measures were reasonable. The Tribunal is of the view that Spain cannot satisfy this test because having induced the Claimants to invest, there was a sudden and drastic change in Spain's policy with regard to RE industry and the legal and regulatory framework was amended over a period of time."⁵⁰

VI. Reservation of rights

75 In accordance with the ICSID Institution Rule 2(2)(a), the above is only a first indication of Claimant's claims. Claimant reserves its right to fully explain, articulate, amend and prove its claims in arbitration proceedings before a Tribunal. This includes submitting further arguments, exhibits, and evidentiary materials, as well as documents mentioned but not submitted with this Request.

D. ICSID has jurisdiction over the dispute

76 ICSID has jurisdiction over the dispute according to Article 25 of the ICSID Convention, which reads as follows:

"The jurisdiction of the Centre shall extend to any legal dispute arising directly out of an investment, between a Contracting State (or any constituent subdivision or agency of a Contracting State designated to the Centre by that State) and a national of another Contracting State, which the parties to the dispute consent in writing to submit to the Centre."

77 As further described below, Germany and Switzerland are Contracting States to the ICSID Convention (I). Both Parties to the dispute have given their written consent to arbitration (II). Claimant is a national of a Contracting State other than Germany and there is a legal dispute between Claimant and Respondent which arises directly out of an investment (III).

⁵⁰ *Watkins Holdings S.à.r.l. and others v. Kingdom of Spain*, ICSID Case No. ARB/15/44, Award, 21 January 2020, para. 597.

I. Germany and Switzerland are Contracting States to the ICSID Convention

78 Germany and Switzerland are Contracting States of the ICSID Convention. They deposited their instruments of ratification with the International Bank for Reconstruction and Development (“**World Bank**”) on 18 April 1969 and 15 May 1968, respectively. The ICSID Convention entered into force with respect to Germany on 18 May 1969 and with respect to Switzerland on 14 June 1968.⁵¹

II. Claimant and Respondent have consented to arbitration

79 The Parties have given their written consent to submit the dispute to ICSID. The written consent of Respondent to refer this dispute to arbitration under the ICSID Convention is set forth in Article 26 of the ECT:

- (1) *Disputes between a Contracting Party and an Investor of another Contracting Party relating to an Investment of the latter in the Area of the former, which concern an alleged breach of an obligation of the former under Part III shall, if possible, be settled amicably.*
- (2) *If such disputes can not be settled according to the provisions of paragraph (1) within a period of three months from the date on which either party to the dispute requested amicable settlement, the Investor party to the dispute may choose to submit it for resolution*
[...]
(c) in accordance with the following paragraphs of this Article.
- (3) *(a) Subject only to subparagraphs (b) and (c), each Contracting Party hereby gives its unconditional consent to the submission of a dispute to international arbitration or conciliation in accordance with the provisions of this Article.*
[...]
- (4) *In the event that an Investor chooses to submit the dispute for resolution under subparagraph (2)(c), the Investor shall further provide its consent in writing for the dispute to be submitted to:*
 - (a) *(i) The International Centre for Settlement of Investment Disputes, established pursuant to the Convention on the Settlement of Investment Disputes between States and Nationals of other States opened for signature at Washington, 18 March 1965 (hereinafter referred to as the "ICSID Convention"), if the Contracting Party of the Investor and the Contracting Party party to the dispute are both parties to the ICSID Convention;*
[...]

⁵¹ [Exhibit CLA-0003: List of Contracting States to the ICSID Convention as of 25 October 2022](#) and [Exhibit CLA-0004: Excerpt of the United Nations Treaty Series concerning the ratification of the ICSID Convention by Germany and Switzerland.](#)

(5) (a) *The consent given in paragraph (3) together with the written consent of the Investor given pursuant to paragraph (4) shall be considered to satisfy the requirement for:*

(i) *written consent of the parties to a dispute for purposes of Chapter II of the ICSID Convention and for purposes of the Additional Facility Rules;*

[...]

80 Both Germany and Switzerland are Contracting Parties to the ECT. Whereas Switzerland deposited its instrument of ratification with the depositary on 19 September 1996, Germany did the same on 16 December 1997 and the ECT entered into force between them on 16 April 1998. A list of Contracting Parties to the ECT, published by the Energy Charter Secretariat, is attached.⁵² Germany's withdrawal from the ECT has not yet become effective and is thus irrelevant.⁵³

81 Claimant has given its consent separately in its letter (Notice of Dispute) of 2 November 2022. By submitting this Request, Claimant reaffirms its consent for this dispute to be submitted to ICSID arbitration pursuant to Article 26(4)(a)(i) ECT. By virtue of Article 26(3) ECT, Respondent has given its unconditional consent to arbitration of this dispute under the ICSID Convention.

82 Claimant hereby declares that it has complied with any condition for submission of the dispute in the instrument of consent, pursuant to Institution Rule 2(2)(b)(iv).

III. This is a legal dispute arising out of an investment between a Contracting State and an Investor of another Contracting State

1. Claimant is a national of another Contracting State

83 Claimant is a national of another Contracting State as required by, and for the purpose of, Article 25(1) ICSID Convention. AET is a legal entity, organized under the laws of Switzerland and, thus, a national of a Contracting Party other than Germany.

2. This is a legal dispute

84 This dispute submitted to ICSID by Claimant is a legal dispute as required by Article 25(1) ICSID Convention. In their Report, the Executive Directors of the Bank have described this requirement as follows:

⁵² [Exhibit CLA-0005: Contracting Parties and Signatories of the Energy Charter Treaty](#), also available [here](#).

⁵³ In addition, the "sunset" clause in Article 47(3) of the ECT protects Claimant's investment for 20 more years even after Germany's withdrawal becomes effective.

26. [...] *The dispute must concern the existence or scope of a legal right or obligation, or the nature or extent of the reparation to be made for the breach of a legal obligation.*⁵⁴

85 Respondent's unwillingness to negotiate with Claimant and its failure to pay compensation clearly shows that there is a disagreement between Claimant and Respondent about Respondent's obligations towards Claimant under the ECT, including Respondent's obligation to pay compensation for losses incurred as a consequence of Respondent's breaches of the ECT.

3. The dispute arises directly out of an investment

86 The dispute arises directly out of Claimant's investment since the Coal Ban Law rendered Claimant's shares held in TKL worthless because operating the Lünen plant is TKL's only business activity and was the purpose of TKL's setup in the first place. Shares and all forms of equity participation in a company or business enterprise are protected investments pursuant to Article 1(6)(b) ECT. Beyond that, Claimant is directly affected by the envisaged shutdown of Lünen because Claimant owns a "slice" of the Plant as such.⁵⁵

4. Attempts to settle the dispute amicably have failed

87 Despite Claimant's invitation to Respondent to enter into discussion to settle this dispute amicably, this attempt to settle the dispute has failed.

88 By letter of 1 November 2022, Claimant notified Respondent of the dispute under the ECT and requested negotiations for an amicable settlement.⁵⁶ It also sent a reminder to Respondent on 11 January 2023.⁵⁷ However, even after more than eight months, Respondent has not replied and, accordingly, no settlement could be reached. Apparently, Respondent does not want to even discuss an amicable settlement.

E. Preliminary indication of the relief sought

89 As a preliminary indication of the relief sought, Claimant expects to request that the Arbitral Tribunal:

⁵⁴ International Bank for Reconstruction and Development, Report of the Executive Directors on the Convention on the Settlement of Investment Disputes Between States and Nationals of Other States, 18 March 1965, para. 26, available [here](#).

⁵⁵ See *supra*, para. 35.

⁵⁶ [Exhibit C-0015: Notice of Dispute of 1 November 2022, incl. Power of Attorney and Proof of Delivery on 2 November 2022.](#)

⁵⁷ [Exhibit C-0016: Notice of Dispute Reminder of 11 January 2023.](#)

- **DECLARE** that Respondent breached its obligations towards Claimant under Part III of the Energy Charter Treaty
- **ORDER** Respondent to pay damages to Claimant in an amount to be further specified (but preliminarily calculated to exceed Rule 66(f)), together with pre-award and post-award interest at a rate to be determined, as well as in an amount equivalent to any taxes which may become payable on the awarded amount; and
- **ORDER** Respondent to compensate Claimant for its costs of arbitration in an amount to be specified later together with interest thereon and, as between the parties, alone to bear responsibility for the compensation to the Arbitral Tribunal and ICSID.

F. Constitution of the Tribunal

90 The parties have not agreed upon the number of arbitrators, nor have the parties agreed on the method of appointment of the Arbitral Tribunal. The ECT does not set forth any particular provisions in this respect.

91 The ICSID Convention provides, and Claimant requests, that a three-member Arbitral Tribunal shall be appointed. Claimant is interested in reaching an agreement with Respondent and proposes the following method for the appointment of the Tribunal:

- (i) Claimant herewith appoints Mr John Beechey as arbitrator. His contact details are:

Arbitration Chambers
Mr John Beechey CBE
Lamb Building, 3rd Floor South
Temple, London, EC4Y 7AS
United Kingdom

Email: jb@beecheyarbitration.com
Phone: +44 (0) 207 167 2040
Mobile: +44 (0) 778570 0171

- (ii) Respondent shall appoint an arbitrator within 30 days from the registration of this Request.
- (iii) The two arbitrators so appointed shall jointly designate a third arbitrator to be the President of the Tribunal within 30 days after the appointment of the second party-appointed arbitrator, or within such other time period as may be jointly agreed by both of them and the parties.

(iv) Failing an appointment of an arbitrator by a party, or agreement by the two arbitrators on the designation of the third arbitrator to be President of the Tribunal, within the time periods stated above, ICSID Arbitration Rule 4 applies.

92 The above procedure is Claimant's proposal for purposes of ICSID Arbitration Rule 15(2).

G. Miscellaneous

93 This Request is addressed to the Secretary General of the Centre at the principal office of the Bank in Washington, D.C. Pursuant to the Institution Rule 4(1), it is filed electronically.

94 The lodging fee of USD 25,000 has been transferred by wire transfer to the following account; proof of wire transfer has been attached hereto.⁵⁸

Beneficiary Bank: Bank of America
Address: 730 15th Street, N.W., 7th Floor
Washington, D.C. 20005
Account Name: International Centre for Settlement of Investment
Disputes
Account #: 226000253217
ABA #: 026009593
ACH #: 054001204
Swift Code: BOFAUS3N
Reference: ICSID lodging fee for Azienda Elettrica Ticinese v.
Federal Republic of Germany

95 Based on the foregoing, Claimant respectfully asks that this Request is registered in the Arbitration Register pursuant to Article 36(3) of the ICSID Convention.

Hamburg, 29 September 2023

Luther Rechtsanwaltsgesellschaft mbH

[signed]

[signed]

Dr Richard Happ

Tim Rauschnig

⁵⁸ [Exhibit C-0017: Proof of wire transfer concerning payment of Lodging Fee.](#)

ANNEX

Partner Companies	Participation (%)
Allgäuer Überlandwerk GmbH	AR 66(f)
Stadtwerke Verden GmbH	AR 66(f)
Azienda Elettrica Ticinese	AR 66(f)
Stadtwerke EVB Huntetal GmbH	AR 66(f)
Energie- und Wasserversorgung Bonn/ Rhein-Sieg GmbH	AR 66(f)
Stadtwerke Georgsmarienhütte GmbH	AR 66(f)
Energie- und Wasserversorgung Mittleres Ruhrgebiet GmbH	AR 66(f)
Stadtwerke Gronau GmbH	AR 66(f)
Energie- und Wasserversorgung Rheine GmbH	AR 66(f)
Stadtwerke Lengerich GmbH	AR 66(f)
Energiehandel Lünen GmbH	66(f)
Stadtwerke Lübeck GmbH	AR 66(f)
ENNI Energie & Umwelt Niederrhein GmbH	AR 66(f)
Stadtwerke Osnabrück AG	AR 66(f)
enwor - energie & wasser vor ort GmbH	AR 66(f)
Stadtwerke Sindelfingen GmbH	AR 66(f)
Stadtwerke Hameln Weserbergland GmbH	AR 66(f)
Stadtwerke Soest GmbH	AR 66(f)
nvb Nordhorner Versorgungsbetriebe GmbH	AR 66(f)
Stadtwerke Tuttlingen GmbH	AR 66(f)
RhönEnergie Fulda GmbH	AR 66(f)
STAWAG Stadtwerke Aachen AG	AR 66(f)
Salzburg AG	AR 66(f)
SWU Energie GmbH	AR 66(f)
Stadtwerke Dachau	AR 66(f)
Teutoburger Energie Netzwerk eG	AR 66(f)
Stadtwerke Dinslaken GmbH	AR 66(f)
Trianel GmbH	AR 66(f)