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Extract from Rigsrevisionen's report on

**the capital increase in
DONG Energy A/S and the
initial public offering (IPO)**

submitted to the Public Accounts Committee



1849
147.281
237
1976
114.6
22.480
908

1. Introduction and conclusion

1.1. PURPOSE AND CONCLUSION

1. This report concerns the capital increase in DONG Energy A/S (DONG Energy) in 2014 and the initial public offering (IPO) of the company in 2016. The Danish Public Accounts Committee requested the study in September 2016. The committee's request is attached to this report as appendix 1.

The purpose of the study has been to provide a factual account of the capital increase and IPO of DONG Energy. Therefore, Rigsrevisionen has generally described, and not assessed, the facts of the case. Rigsrevisionen has, however, assessed how the Ministry of Finance managed its ownership interests in the process and whether it adhered to principles of good administration.

2. The Public Accounts Committee asked for a study that could be published. It is for the auditor general to make the final decision as to whether information should be treated as confidential. Making this assessment is not always straightforward and in this study it has involved weighing up private and public economic interests against the requirement to provide a coherent account of events. The auditor general's deliberations in this respect have included confidentiality restrictions imposed by the Ministry of Finance and DONG Energy. The Ministry of Finance has concluded that many aspects of the process should be treated as confidential. Rigsrevisionen has not always been able to follow the ministry's reasoning in this respect and has discussed the justification of confidentiality repeatedly with the ministry. Because Rigsrevisionen has not been in possession of information that could set aside the ministry's classification of certain information as confidential, and because some of the classified information concerns a third party, the auditor general decided to respect the assessments made by the Ministry of Finance concerning confidentiality. Some aspects of the case are therefore described in general terms in the report, whereas other information has been left out altogether, like, for instance, the names of investors, amounts and negotiating positions. It will be clearly indicated in the report when significant information has been left out for reasons of confidentiality.

DONG ENERGY A/S

DONG Energy A/S is producing and trading in energy, and is partly owned by the Danish state. DONG Energy was established in 2006 by the merger of five smaller energy companies: Elsam, Energi E2, NESÅ, Københavns Energi and Frederiksberg Forsyning.

DONG Energy is the largest Danish limited company in which the Danish state has an ownership share.

The Public Accounts Committee also asked Rigsrevisionen to focus on issues that had not previously been addressed in the Folketing (Danish parliament) or in parliamentary consultations. Based on the committee's request and the nature of the case, and in order to give a full account of events to the extent permitted under the confidentiality restrictions, Rigsrevisionen has found it relevant to include both new and known information in the report. The confidentiality issue has not affected Rigsrevisionen's access to material held by the Ministry of Finance.

3. The Public Accounts Committee asked Rigsrevisionen to describe the preparation of the sale of shares, the actual sale and the subsequent IPO of the company. In order to provide a complete account of events, Rigsrevisionen has therefore also described the deliberations of DONG Energy that preceded the decision to approach the Ministry of Finance concerning the need for a capital injection and the ministry's assessment hereof.

The Public Accounts Committee also asked Rigsrevisionen to give an account of DONG Energy's and the Ministry of Finance's role in the valuation of the company, including any potential incentive structures in relation to the valuation and incentive schemes set up for employees in DONG Energy. Rigsrevisionen has described the role played by these parties in the valuation of DONG Energy, the negotiations with the investors and the creation of the incentive scheme. In doing so, Rigsrevisionen has clarified who had the leading role in the process of increasing the capital of DONG Energy. Rigsrevisionen is not assessing whether the valuation of DONG Energy, and thereby the offering price of the shares, was correct.

The Public Accounts Committee also requested a description of how the Ministry of Finance had managed its ownership interests after the capital injection and IPO, including aspects concerning the shareholders' possibilities of exerting influence on DONG Energy after it changed status and became a listed company. Rigsrevisionen has therefore assessed whether the Ministry of Finance, throughout the proceedings, has managed its ownership interests in compliance with the principles of the government's ownership policy. Rigsrevisionen has also described the nature of the ministry's oversight after the IPO. Last, the Public Accounts Committee asked for a description of several aspects concerning DONG Energy's financial position after 2012 and dividend payments made to Goldman Sachs and the Danish state after the capital injection. Rigsrevisionen does not have access to information on the exact amount of dividend paid to named shareholders other than the Danish state.

CONCLUSION

Overall, it is Rigsrevisionen's assessment that the Ministry of Finance has managed its ownership interests actively and had a leading role in connection with the capital injection and subsequent IPO of DONG Energy. These were intensive processes during which the Ministry of Finance and DONG Energy worked closely together, assisted by their advisers.

Rigsrevisionen has noted that several key documents concerning the capital injection are non-existent, and that the ministry's deliberations are not always adequately documented. This is considered very unsatisfactory by Rigsrevisionen, when taking into account the financial value of the transaction and the fact that the inadequate documentation concerns important aspects of the case. The Ministry of Finance has thus failed to ensure adequate transparency of the decision-making process as prescribed by the principles of good administration.

Rigsrevisionen's overall assessment is based on the following:

DONG Energy approached the Ministry of Finance in December 2012 concerning the need for a capital injection to avoid a downgrading of the company's credit rating. The Ministry of Finance concluded that a capital injection of DKK 6 to 8 billion, in combination with other initiatives, could bring DONG Energy back on track. Rigsrevisionen's review shows that the Ministry of Finance's deliberations concerning the need for a capital injection were both very thorough and well documented.

The Ministry of Finance's recommendation to the government's Economic Affairs Committee, and subsequently also to the political parties to the agreement, was that it would be in the interest of the Danish state to raise the required capital from private investors. However, it also appears from the recommendation that on the face of it, a capital injection by the Danish state – if seen from a purely commercial perspective – seemed to be preferable. The commercial differences and economic consequences of a capital injection by the state or private-sector investors, or a combination of the two, for the Danish state as an investor, do not appear explicitly from the casefile. The Ministry of Finance's considerations led to the recommendation to seek capital from private investors. In February 2013, the political parties agreed on a capital injection of minimum DKK 6 to 8 billion.

As a first step in the process to increase capital the advisers contacted a wide range of investors, and at the end of June 2013 some of these submitted indicative offers, which were reviewed by the Ministry of Finance based on a valuation of DONG Energy, among other things. The Ministry of Finance has made the assessment that specific valuations of DONG Energy are to be treated as confidential and they have therefore been left out of the report. The Ministry of Finance has informed Rigsrevisionen that its overall assessment of the value of DONG Energy was based on calculations made by Danske Bank (major Danish banker) in January/February and June of 2013, on behalf of the Ministry of Finance.

The Ministry of Finance's overall assessment resulted in a more narrow valuation range than the one determined by Danske Bank in June 2013. One of the recommendations submitted to the Economic Affairs Committee by the Ministry of Finance included a very general account in this respect. Rigsrevisionen's review shows that the Ministry of Finance's considerations concerning the overall assessment of the valuation of DONG Energy are not sufficiently documented. It does not appear from the documents on file how the Ministry of Finance, based on the calculations made by Danske Bank, arrived at its overall assessment of the valuation of DONG Energy.

A few investors submitted final offers at the beginning of September 2013. Of these only Goldman Sachs was prepared to invest all the funds necessary to meet the capital requirement. Contrary to the written instructions given to the potential investors, significant aspects of Goldman Sachs' offer concerning the value of DONG Energy and the size of the investment offered were not submitted in writing. The Ministry of Finance has informed Rigsrevisionen that Goldman Sachs submitted an oral offer at a meeting, but no minutes of that meeting are available. The Ministry of Finance has also informed Rigsrevisionen that Goldman Sachs had valued the company within a price range, which appears from the calculations made by Danske Bank on 2 September 2013 and from recommendations to the Economic Affairs Committee submitted in mid-September 2013. The Ministry of Finance has subsequently – in consultation with the Legal Adviser to the Danish Government – informed Rigsrevisionen that because the framework defined for the transaction was quite loosely formulated and because the ministry in letters to the investors had reserved the right to change the process, Goldman Sachs' oral offer can be considered a final offer given in accordance with the terms of the bidding process. It is Rigsrevisionen's assessment that such an essential element should have been documented more carefully to avoid subsequent uncertainty as to whether an offer had been submitted within the framework defined for the process.

Rigsrevisionen's study shows that the closing negotiations were not fully documented. Selected information concerning the negotiations has been classified by the Ministry of Finance in order to protect the financial interests of the Danish state, among other things. The Ministry of Finance has also concluded that publication of details from the negotiations could harm the investors' commercial interests. Rigsrevisionen has noted that the Ministry of Finance contacted the ATP (Danish pension fund) as an alternative to Goldman Sachs, should the latter decide not to invest in DONG Energy. Following negotiations with Goldman Sachs and the ATP, the Ministry of Finance approached the Economic Affairs Committee with a request for a mandate to enter an agreement with Goldman Sachs, if Goldman Sachs accepted the terms of the Danish state, and with the ATP, if Goldman Sachs did not accept said terms. The Ministry of Finance indicated in its recommendation to the Economic Affairs Committee that due to the state subsidy principles of equal treatment and transparency, an agreement with the ATP would only be an option, if Goldman Sachs withdrew from the negotiations.

The Ministry of Finance has informed Rigsrevisionen that its contact with the ATP was informal and exploratory. In a letter to the minister for finance from August 2015, the chief executive officer of the ATP confirmed that the ATP did not submit a new offer. The Ministry of Finance has also informed Rigsrevisionen that the recommendation to the Economic Affairs Committee was not entirely clear since the intention was to obtain a mandate to initiate negotiations with the ATP, if Goldman Sachs withdrew from the negotiations. Last, the Ministry of Finance has stated that an agreement with the ATP would require a new sales process; this information was not included in the recommendation to the Economic Affairs Committee, however.

It also appeared from the recommendation to the Economic Affairs Committee that the Ministry of Finance could not recommend the Danish state to inject capital in the company due to the state subsidy regulations, among other things.

On 29 November 2013, the Danish state entered an agreement with Goldman Sachs, the ATP and the PFA (Danish pension fund) on a capital injection of DKK 11 billion. The Finance Committee of the Folketing endorsed the agreement on 30 January 2014 in document no. 37. Capital injections by existing minority shareholders and employees of DONG Energy increased the total amount of capital injected into the company to DKK 13.3 billion.

At the request of the investors, a share-based incentive scheme was set up in conjunction with the capital increase. The Public Accounts Committee asked Rigsrevisionen to look into potential incentive structures in relation to the valuation of the company and the incentive scheme. Rigsrevisionen's review shows that the share-based incentive scheme was designed by DONG Energy and the Ministry of Finance and approved by the shareholders and board of DONG Energy. Establishing incentive schemes for employees in companies partly or fully owned by the Danish state is in accordance with the government's ownership policy. Share awards were calculated based on the increase in company value up to the IPO, and thus with the valuation of DONG Energy in 2013 as a baseline. The management of DONG Energy was not involved in the valuation of the company in 2013, which was negotiated between the investors and the Ministry of Finance.

The IPO of DONG Energy in June 2016 was organised by the Ministry of Finance, DONG Energy and their respective advisers. The offer price was DKK 235 per share, which corresponded to a total value of DONG Energy of DKK 98 billion, at the time of the IPO. DONG Energy's value had thus increased by 119 per cent since the capital injection. The Danish state sold shares for DKK 8.2 billion when the company was listed. Rigsrevisionen finds that the Ministry of Finance's deliberations concerning, for instance, timing of the IPO and trading range were thorough, relevant and well documented.

When a company has been listed on the stock exchange, the shareholders' possibilities of exerting influence and accessing information on the company change. These matters are regulated in relevant legislation concerning companies, financial statements and the stock exchange. In accordance herewith, Rigsrevisionen has noted that former agreements among the larger shareholders on access to information on the company, right of veto, etc. have become void after DONG Energy changed status to a listed company.

In the period examined, the most significant financial key figures show that DONG Energy's financial position at the beginning of 2017 had improved considerably compared to previous years, and in 2016 the company produced a profit for the first time since 2011. In March 2017, the general assembly decided to pay a dividend of DKK 6,00 per share to the shareholders, which meant that the Danish state received a dividend payment of approximately DKK 1.3 billion.