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# press release

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## **CMS Hasche Sigle secures further victory for citiworks AG**

### **Naumburg Higher Regional Court quashes site network decision issued by the regulatory authority for the Federal State of Saxony-Anhalt**

Stuttgart – A new judgement gives a further boost to deregulation of the electricity market. Electricity providers can now assert their statutory entitlement to network access against the network operator with the object of supplying customers in the Bitterfeld-Wolfen industrial zone. In a test case, Naumburg Higher Regional Court overturned the disputed aspects of the site network decision issued by the regulatory authority for the Federal State of Saxony-Anhalt with relation to the electricity network operated by envia INFRA GmbH in the Bitterfeld-Wolfen industrial zone. The ruling was given on 28 December 2009. Permission to appeal to the Federal Court of Justice was granted.

A CMS Hasche Sigle team led by lead partner Dr Christian F. Haellmigk had contested the regulator's decision on behalf of citiworks AG, a German electricity provider. "I'm pleased that this long drawn-out case has finally been brought to a conclusion. In the meantime, even the Federal Court of Justice has confirmed citiworks AG's right to complain," explained Dr Christian F. Haellmigk, who successfully represented his client before Naumburg Higher Regional Court, having already acted for citiworks before the Federal Court of Justice.

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The European Court of Justice (ECJ) attracted widespread interest in May 2008 by ruling that a further exemption accorded to site networks under German law is incompatible with the 2003 European Electricity Acceleration Directive. That case was also conducted by a CMS team under Dr Christian F. Haellmigk on behalf of citiworks AG. In response to this ruling, the EU legislator has allowed possible exceptions for "closed distribution networks" in its third energy package for the internal market (2009). However, the exceptions expressly do not include exemption from the general obligation on network operators to grant network access to electricity providers. The EU internal market package is due to be translated into German energy legislation in 2010.

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