

Summary of replies to the public consultation on the pricing principles for utilisation of LNG terminals

From 13 July 2005 to 16 September 2005, CRE organised a public consultation on the pricing principles for utilisation of LNG terminals in France.

Eleven replies were received from:

- Nine market players and users' representatives;
- Operator of the two LNG terminals of Fos Tonkin and Montoir;
- Operator of the future terminal of Fos Cavaou.

On the whole, users would like for the next tariff to foster access to LNG terminals for small-sized users. They highlight the fact that the following items could be improved:

- Flexibility for users;
- Transparency in terms of publication of capacities;
- Consistency of terminal access rules with those concerning third party access to the transmission network downstream and to storage facilities.

Moreover, some respondents indicated that they were unable to reply to certain questions due to lack of details in the consultation document.

NB: The market players who replied to the public consultation are current and future potential users of LNG terminals and representatives of the group of current and future users. For simplification reasons, the terms “users” and “shippers” are employed in this summary of replies to the public consultation indifferently for the three categories mentioned above.

Replies to the questions asked

Question 1: Do you have any experience feedback on current tariffs and terms for utilisation of LNG terminals?

✓ **Market players:**

Only two users have any actual experience feedback on the tariff and current terms for utilisation of LNG terminals in France.

Concerning the terms for utilisation of terminals, these two users complain that terminal outputs are not controlled by the supplier, whereas the latter must be able to minimise, at the reception terminal, constraints related to production plants and to maritime chains and is responsible downstream for its balancing in a given balancing zone. The users have asked for the regasification service, which they purchase on an individual basis, not to be affected by the services provided to other users unless a detailed system of mutualisation of LNG stocks is provided. This system should allow for recompense for any harm caused to the supplier by the failure of another.

Another user indicated that he has delivered LNG to French LNG terminals on the behalf of Gaz de France Négoce. He therefore did not officially use the LNG terminals within the framework of third party access, mainly due to the complexity and constraints placed upon such TPA for a newcomer.

Question 2: What do you think of the principles adopted by CRE to determine operators' allowed revenue level (RAB valuation method, rate of return on invested capital, etc)?

✓ **Market players:**

Opinions differ concerning the rate of return on invested capital set at 9.75 % and at 11% for new investments.

One user thinks that this is justified.

One user thinks that the current rate of return is justified only if it is accompanied by the possibility of investing in projects on terminals for potential investors. However, he thinks that such a rate of return combined with a drop in the filling rate will cause the tariff to rise and that balance between the rate of return and the filling rate is desirable to optimise the rate of utilisation of LNG terminals.

One user deems that it is very high compared to the value applied in other European countries such as Italy (real pre-tax rate of 7.6%) and Spain (5.76%). In addition, he would like the assets to be valued against their usage value and replacement value.

One user regrets that the RAB valuation method is not completely published and deems that the level of the tariff is astonishing, one of the highest in Europe whilst in his opinion French LNG terminals have been largely amortised.

Another user thinks that there should be a mechanism for making up for imbalances between the hypotheses adopted for determining the tariff (in this case for 2006 and 2007) and actual performance over the same period. He suggests that CRE should take account of this when fixing the level of tariffs for the future period if any significant imbalance is observed between forecast and actual activities, for reasons beyond the control of the LNG terminal operator.

Concerning operating costs, two shippers think that incentives for productivity gains should be provided along with incentive mechanisms so that the terminal operator minimises its variable costs.

✓ **Terminal operators:**

Gaz de France Grandes Infrastructures is astonished that the consultation goes back over the principles for determining capital costs which were the subject, after public consultation, of deliberations on 24 July 2003 and condition investments.

Société du Terminal Fos Cavaou notes that CRE could propose a fresh tariff by coordination with that to be proposed for the new terminal of Fos Cavaou, as from its commissioning date. It draws attention to the fact that in compliance with CRE deliberations of 24 July 2003, the new LNG terminals are subject to case-by-case handling. It points out that Société du Terminal Fos Cavaou is a specific company with totally new assets which must result in a different cost structure to that of the original terminals.

Question 3: What do you think of the two services, “continuous output” and “30 day band”, envisaged according to types of users?

✓ **Market players:**

One user would like to be able to control its daily output within the framework of the continuous output service and have a certain amount of flexibility on a daily basis in line with the technical limits set by the operator.

One shipper thinks that introduction of a continuous output service enabling users to benefit from the smoothing of daily output between receipt of two LNG cargoes constitutes real progress.

The 30-day band service as presented in the consultation document is criticised by four users who highlight the fact that it does not provide the shipper with enough flexibility. For three of them, this should be minimum service. The terminal operator should be able to propose to the shipper that his output more or less depends on his technical possibilities and service optimisation constraints.

One of them would like the terminal user to have the possibility of output over periods of time less than or equal to 30 days within the framework of this option.

He also highlights the fact that incorporation of a filling rate lower than 1 should structurally involve flexibility which should be checked to ensure that it is allocated in a non-discriminatory manner to all users. Lastly, he would like the users, for whom the services proposed are insufficient, to have the possibility of making investment at their cost (storage and/or output capacities) required to create flexibility tools needed and, if needs be, connecting an installation (CCGT for example) directly to a terminal.

Lastly, this user states that he is in favour of a system providing users of the terminal with greater flexibility, if needs be, in the form of supplementary paid for services. This user also proposes facilitating exchange of flexibility between shippers.

One shipper wonders about the guarantees connected to the 30-day band in the event of failure of another terminal user.

Another shipper is against the fact that one user can have one or other of the services imposed depending on the criteria fixed of one ship a month.

Two users are in favour of the 30-day band service proposed.

For one of them, importers of sporadic LNG cargoes encounter the following obstacles downstream: insufficient visibility for transmission capacities available downstream of the terminals, absence of a marketplace in France, and lastly fairly restrictive terms for access to underground storage facilities (seasonal utilisation only). In practice, these factors make access very difficult for alternative suppliers on the LNG market.

✓ **Terminal operators:**

Gaz de France Grandes Infrastructures is in favour of the two services proposed.

Question 4: Within the framework of 30-day band output services, do you think it appropriate to apply different tariffs for spot cargoes reserved after the monthly unloading programme has been drawn up?

✓ **Market players:**

Users are split concerning the interest of reduced tariffs for late reservations. Several consider that the different services proposed are not precisely enough described in the consultation document.

Four users are against the application of different tariffs for these spot cargoes reserved at the last moment. Some of them consider that such an approach could encourage certain participants to speculate. One user indicates that a certain amount of priority must be given to intra-monthly rescheduling, given existing contractual commitments and typical risks with supply chains.

Two users are, on the other hand, in favour of setting up a reduced tariff for spot cargoes reserved after the monthly unloading programme has been drawn up. One of them stipulated that in order for the system to work the capacities available and state of the scheduling should be published.

Going beyond the issue of price, most users insist on the need to improve transparency for real utilisation of capacities and the need to provide a restrictive mechanism of “use it or lose it” to foster the release of unused capacities at saturated LNG terminals and arrival of spot cargoes reserved at a much later date.

✓ **Terminal operators:**

Gaz de France Grandes Infrastructures is in favour of application of a different tariff for spot cargoes reserved after the monthly unloading programme has been drawn up.

Question 5: *What do you think of modifications to the pricing structure for utilisation of LNG terminals envisaged in the consultation document? And more especially what do you think of the solution proposed to replace the fees for utilisation of storage facilities? What do you think of the introduction of fees for regular use?*

✓ **Market players:**

Several users have found it difficult to express an opinion on this question as quantification of tariff elements is not known.

Several stress the fact that tariffs should not be too complex in nature.

One shipper stipulates that introduction of several tariff elements must not lead to disparities between the users of different sizes.

One user would like to keep a storage fee resulting in a fair allocation of costs to users, in addition to purchase of storage services provided by the operator of underground storage facilities. This user has asked for a pricing signal to be built in, consistent with the cost incurred by output of a cargo in a few days, so as to prevent competitive imbalances between the various means of system flexibility.

Two users have criticised the envisaged replacement of fees for "utilisation of storage facilities" with fees for "duration of utilisation of storage facilities" as this would tend to favour large-sized terminal users. In the case of spot cargos, duration of utilisation of storage facilities is, moreover, imposed by the terminal without the users have any control over these fees.

One user proposes restructuring of the regasification tariff with transfer of storage weighting to output so as to make the "30-day" offer more competitive.

Two users are in favour of introduction of fees for regular use. However, one of them commented that the fees for regular use proposed in the consultation document seem like fees for seasonal modulation and do not reflect utilisation of an LNG terminal. Another user fears that the terminal could impose constraints for scheduling their unloading on users, thus causing modification to their summer/winter distribution.

Two users would like the payment of "gas in kind" (deduction of 0.5% of quantities unloaded) to be consolidated with an audit in the two terminals.

✓ **Terminal operators:**

Gaz de France Grandes Infrastructures is in favour of proposed modifications to the pricing structure.

Question 6: *Do you think the penalty planned for non-compliance with scheduling is justified?*

✓ **Market players:**

Four users are against the setting up of such a penalty.

Several think that the level of "ship or pay" is in itself sufficient incentive for users to comply with scheduling.

Several point out that if, however, this penalty should be applied, it should not be applicable to rescheduling (which in the event of problems upstream of the LNG terminal must enable unloading operations to be maximised over the month) and to cases of procurement being affected by unforeseen circumstances, making it difficult to cancel scheduling. Moreover, if the unloading slot has been put back on the market and sold by the terminal, the penalty should no longer apply.

Three users agree with the principle of this penalty as its application will foster economical and streamlined utilisation of the facilities. One of them stressed the fact that it should only be applied in the case of actual constraints for operators. On the other hand, an incentive scheme of compensation for compliance with scheduling and for changing the slot because of the operator, should be proposed if a user accepts to bring forward or postpone a delivery.

✓ **Terminal operators:**

Gaz de France Grandes Infrastructures is in favour of the proposed penalty.

Question 7: *What level of obligation of payment for subscribed capacities (“ship or pay”) do you deem appropriate?*

✓ **Market players:**

Four users consider that the current level of obligation of payment is acceptable.

Two users think that a high level of “ship or pay” helps to prevent speculative subscription of capacities and proposes its increase. This would foster effective reservation of cargo arrival slots and encourage users to release the slots they do not actually use.

One of them proposes to raise it up to 100%.

Only one user proposes a decrease in the level of ship or pay to 50%.

✓ **Terminal operators:**

Gaz de France Grandes Infrastructures stresses that a modification to contractual terms of “ship or pay” could give the right to subscribers (who have accepted the tariff risk but not the risk on the other contractual terms) to review their long-term subscriptions. In their opinion, the “denominator” of the pricing calculation could also be reviewed which might drive the tariff up.

Question 8: *What do you think of planned modifications to tariffs for utilisation of LNG exchange points?*

✓ **Market players:**

Two users remark that bringing the proportional fees in line with those used on the gas exchange points seems consistent.

One market player states that the proposal aiming to introduce a monthly fixed fee constitutes progress in terms of terminal utilisation flexibility. This user would like CRE to check that the corresponding tariff and that of associated services (inspection of ships, inerting, etc) are well defined based on the terminal operator's costs.

Three other users think that this tariff is still too high and two of them suggest it should be completely free of charge. One of them highlights the fact that these exchanges do not result in any specific costs for the operator which should leave users free to carry out LNG exchanges without any intervention.

Question 9: Do you think you are sufficiently informed about terms for utilisation of LNG terminals and capacities available? If not, what additional information would you like the LNG terminal operator to make public?

✓ **Market players:**

Most users consider that transparency is currently inadequate.

Four users have asked for the publication and regular updating of available unloading slots. This information should be posted on line and accessible at any time on Internet. One of them has asked for three months' visibility. Another stipulates that these publications must concern both the primary and secondary markets. One of these users specifies that it is necessary to know: total capacities (and inoperability for maintenance), capacities reserved in the short and long term, capacities available for sale, the state of long-term scheduling, and on a monthly and daily basis (guaranteed and non-guaranteed spot) and the filling rate of LNG storage facilities.

One shipper would also like greater transparency for transmission capacities available downstream of the terminals.

One user would like to know the LNG terminal development plan (technical changes to infrastructures).

✓ **Terminal operators:**

Gaz de France Grandes Infrastructures considers that the market players are well enough informed.

Question 10: Do you have any comments on the allocation rule published by the LNG terminal operator and/or its application?

✓ **Market players:**

Three users emphasise the fact that lack of transparency for capacities available and the state of scheduling makes the current allocation rule of little relevance.

One of them stresses the fact that having to justify requests for capacity reservation with an LNG supply contract penalises small-sized users. They need to be able to justify LNG regasification capacities in order to sign these supply contracts.

He comments that this allocation rule does not affect annual capacities assigned by the terminal operator before this date and which are being used. Even if he agrees with the principle, he does, however, fear that it could lead to shortage of capacity at the terminals, which are already saturated due to the arrival in France of new contracts recently concluded (after opening of the markets) by the incumbent operator. The volumes of these contracts are superimposed on previous reservations by the incumbent operator without any adverse effects. In his opinion, it would be better for these capacities to be made available to all users.

One user criticises the principle of “first come first served” which implies that the earlier the reservation is made in advance, the greater the supplier’s priority over reservations communicated to the terminal at a later date. He considers that newcomers are thus penalised and would prefer a system of allocation of capacities based on the pro rata of requests.

Question 11: *Do you have any other remarks concerning tariffs and methods for utilisation of LNG terminals?*

Associated services

One user has asked for clarification of the tariff of certain associated services contributing to the role of an LNG terminal and directly related to access to terminals: mainly authorisations for ships.

Consistency of third party access to the transmission network downstream

Two users remark that, as reservations of transmission capacities are made in calendar months, the incompressible duration envisaged for the 30-day band could risk obliging the shipper to make reservations of transmission capacities on the network downstream for periods more than 30 days (in the case of the band overlapping two calendar months).

Consistency of third party access to storage facilities

One user added to his replies on the utilisation of LNG terminals by asking for certain amounts of flexibility in the mechanism for third party access to networks and underground storage facilities, especially, in compliance with recommendations in the guidelines for good practice for gas storage system operators (GGPSSO), possibilities for exchange of unbundled storage capacities (injection capacity, withdrawal capacity and volume), going beyond the exchange and resale of bundles currently authorised.

Maintenance

One user highlights the fact that in the event of maintenance affecting his programme, in his opinion, the shipper should benefit from a price cut if the number of maintenance days affecting his programme is above a certain threshold.

Another user would like maintenance programmes and terminal development plans to be published.

Cryogenic lorries

One shipper would like a system of LNG loading on cryogenic lorries from the LNG terminals to be developed, so as to facilitate natural gas supply for customers located far away from gas pipelines.

Tariff duration

One user points out that visibility provided for users by the current tariff, with an expiry date of 31 August 2005, is insufficient. He would like the fresh tariff to provide visibility over several years.

In the same way, Société du Terminal Fos Cavaou stresses that the tariff for existing terminals should be based on the hypotheses of costs and utilisation smoothed over several years, independently of future pricing for the Fos Cavaou terminal. Given the specificities of LNG chains and amounts of investments at stake, this operator has asked for visibility for the level and structure of the original terminal tariffs over several years (beyond the start-up of the new terminal of Fos Cavaou).

Gaz de France Grandes Infrastructures would like the following proposal to be studied:

- A fresh tariff applicable from 1 January 2006 to 31 December 2007 to allow for the possibility of integrating market developments when the Fos-Cavaou terminal is commissioned;
- Incorporation in tariff calculation of the hypotheses of costs and subscriptions between 1 January 2006 and 31 December 2009. This would stabilise the tariff in the long run. It would fall by around 7% in 2006, compared to the current tariff. It would then be maintained at this level if initial hypotheses were confirmed over the coming years. This proposal would be in line with practices in other European countries where pricing principles are maintained over several years.

List of respondents

Market players:

- BP (via UPRIGAZ)
- Distrigaz S.A.
- EDF
- Exxon Mobil International Limited
- Gaz de France Négoce
- Gas Natural Commercialisation France SAS
- Statoil (via UPRIGAZ)
- Total Gas & Power limited
- UPRIGAZ (Union professionnelle des industries privées du gaz)

LNG terminal operators:

- Gaz de France Grandes Infrastructures
- Société du terminal de Fos Cavaou