

## PUBLIC CONSULTATION

# Public consultation by the French Energy Regulatory Commission of 14 September 2016 relating to the new tariffs for the use of regulated LNG terminals

Articles L.452-1 and L.452-2 of the French Energy Code authorise the French Energy Regulatory Commission (CRE) to decide on the method for calculating the tariffs for using liquefied natural gas (LNG) facilities, as well as the methods for calculating the tariffs for related services performed exclusively by the operators of these facilities. Furthermore, pursuant to article L.452-3 of the said code, the CRE may amend the levels and structure of these tariffs in any way it considers necessary, in particular based on an analysis of the accounts kept by the operators of regulated LNG terminals and foreseeable changes in operating costs and investments.

The current access tariffs for the regulated LNG terminals in Montoir-de-Bretagne (Montoir) and Fos Tonkin, which are operated by Elengy, and the Fos Cavaou terminal, which is operated by Fosmax LNG, are known as the "ATTM4 tariffs"<sup>1</sup> and came into force on 1 April 2013<sup>2</sup>. They will apply for a period of approximately four years.

The CRE wishes to establish new access tariffs for the regulated LNG terminals, known as the 'ATTM5' tariffs, which will apply from 1 April 2017.

The CRE conducted an initial public consultation from 25 February to 25 March 2016 to collect the opinions of key players in the market on the initial options envisaged regarding the next access tariffs for the GRTgaz and TIGF natural gas transmission networks (known as the "ATRT6" tariffs) and the ATTM5 tariffs. 38 responses were received, including some confidential responses. The non-confidential responses are available on the CRE website<sup>3</sup>.

In April 2016, the operators of the regulated LNG terminals sent their tariff documentation to the CRE.

The aim of this public consultation is to gather input from the market regarding the options envisaged by the CRE for the ATTM5 tariffs. These concern the tariff regulation framework, the level of tariffs and the structure of the tariff offerings of the LNG terminals.

Items from the tariff documentation sent to the CRE by Elengy and Fosmax LNG would lead to a change in unit tariffs of -0.7% for Montoir, -13.9% for Fos Tonkin and -11.9% for Fos Cavaou.

At this stage, with regard to the requests from Elengy and Fosmax LNG, the CRE is planning:

- to adjust the trajectories of the net operational charges requested by the LNG terminal operators;
- to decide on a weighted average cost of capital (WACC) equal to that of the transmission network operators, within a range from 4.75% to 5.5% actual before tax, plus a bonus reflecting the specific risks to LNG terminals, within a range from 1.0% to 2.4%.

Depending on the rate of remuneration applied, and the direction of the net operational charges selected, the change in the ATTM5 tariff may be between -2.5% and -10.6% inclusive for Montoir, between -14.4% and -18.5% inclusive for Fos Tonkin and between -14.8% and -26.1% inclusive on average per year for Fos Cavaou.

The CRE is planning the following schedule for drawing up the ATTM5 tariff and its entry into force:

- this public consultation is open up to 14 October 2016;
- the CRE's tariff deliberation, having consulted the French Higher Energy Council (CSE), will be adopted at the end of 2016;

<sup>1</sup> Access by Third Parties to LNG Terminals

<sup>2</sup> The CRE deliberations of 13 December 2012 on the decision relating to the tariff for the use of regulated LNG terminals:

<sup>3</sup> These non-confidential responses to the CRE's public consultation of 25 February 2016 can be consulted [here](#).

15 September 2016

- the ATTM5 tariff will enter into force on 1 April 2017.

At the same time as this public consultation, the CRE is publishing an audit of the request from LNG terminal operators on the rate of remuneration for the period of the ATTM5.

### **Respond to the consultation**

The CRE would like to invite all interested parties to send their input by no later than Friday 14 October 2016:

- by email to: [dr.cp5@cre.fr](mailto:dr.cp5@cre.fr);
- by post to: 15, Rue Pasquier, F-75379 Paris Cedex 08, France.

Non-confidential contributions will be published by the CRE. Please indicate in your response whether you wish your response to be considered as confidential or anonymous. Otherwise, your contribution will be considered not confidential and not anonymous.

Interested parties are invited to send the observations justifying their positions.

# CONTENTS

<b>1. TARIFF REGULATORY FRAMEWORK.....</b>	<b>4</b>
1.1 CHARGING STRUCTURE PRINCIPLES .....	4
1.2 ENTRANCE INTO FORCE AND PERIOD OF APPLICATION .....	4
1.3 CAPITAL CHARGES.....	4
1.3.1 Incentives for developing regasification capacities .....	4
1.3.2 Incentive-based regulation of investment costs .....	5
1.4 OPERATING EXPENSES .....	5
1.5 INCOME AND EXPENDITURE CLAWBACK ACCOUNT.....	5
1.6 RENDEZ-VOUS CLAUSE .....	6
<b>2. TARIFF LEVEL .....</b>	<b>7</b>
2.1 ASSESSMENT OF ATTM4 TARIFFS.....	7
2.1.1 Subscriptions .....	7
2.1.2 Operating expenses .....	7
2.1.3 Capital charges .....	7
2.1.4 Income and expenditure clawback account.....	8
2.2 REQUESTS FROM OPERATORS FOR THE ATTM5 TARIFFS.....	9
2.2.1 Subscriptions .....	9
2.2.2 Authorised income .....	9
2.3 THE CRE'S PRELIMINARY ANALYSIS .....	11
2.3.1 Subscriptions .....	11
2.3.2 Capital charges .....	11
2.3.3 Trajectory of net operating costs.....	15
2.3.4 Summary .....	16
<b>3. TARIFF OFFERING AND STRUCTURE.....</b>	<b>20</b>
3.1 PROPOSED SERVICES .....	20
3.1.1 Assessment of proposed services .....	20
3.1.2 Anticipated changes .....	20
3.1.3 Other services .....	23
3.2 TARIFF STRUCTURE.....	26
3.2.1 Assessment of the tariff structure .....	26
3.2.2 Incentive charge to encourage regularity of unloading operations (TR).....	26
3.2.3 Change in the charge for using regasification capacities.....	26
3.2.4 Tariff level applicable to vessel reloading operations .....	27
3.2.5 Harmonising the number of berthing operations charges .....	28
3.2.6 Rules for the off-take of gas in kind.....	28
3.3 DRAWING UP RELOADING AND TRANSSHIPMENT SCHEDULES .....	29
3.3.1 Annual schedule .....	29
3.3.2 Intra-annual rescheduling operations.....	30
3.4 MARKETING CAPACITIES RESERVED IN THE SHORT TERM AT FOS CAVAOU .....	31
<b>4. SUMMARY OF QUESTIONS .....</b>	<b>32</b>

## **1. TARIFF REGULATORY FRAMEWORK**

### **1.1 Charging structure principles**

The CRE presented an assessment of the ATTM4 tariffs as part of the first public consultation conducted from 25 February to 25 March 2016: the CRE considers that the current tariff framework is satisfactory and has indicated that it plans to make limited changes. All the key players who have responded to the public consultation have shared these findings. For the next tariffs for the use of LNG terminals, the CRE is planning to retain the charging structure principles implemented under the ATTM4 tariffs, namely:

- individual tariffs for each terminal, to take account of the costs and specific features of each of these facilities;
- a multi-year tariff to apply for a period of approximately four years from 1 April 2017, with a planned change, as of 1 April 2019, of each operator's schedule of tariffs, based on predefined rules;
- an obligation to pay for 100% of contracted capacities ("ship or pay");
- an expenses and revenues clawback account, used, for certain accounts items identified in advance, to correct all or some of the variances between actual expenditure and income figures on the one hand and the forecast expenditure and income figures used to establish the operators' tariffs on the other;
- a review clause that can be activated after the tariffs have been in use for two years, aimed at taking account, if appropriate, in the net operating cost trajectories covered by the ATTM5 tariffs, of any consequences of legislative or regulatory changes or judicial or any quasi-judicial decisions for the period after this review clause is implemented.

### **1.2 Entrance into force and period of application**

For the ATTM4 tariff period, the tariffs for using the terminals were defined for four years with an interim update two years after the tariffs come into force.

Consistent with the tariff periods planned for the next tariffs for using the transmission networks, the CRE is planning to retain this period of application of approximately four years as of 1 April 2017. Indeed, as the liquefied natural gas (LNG) unloaded in the LNG terminals is injected into the transmission networks, the various regasification services, as well as the capacity income and tariffs associated with the LNG terminals' transport interface points (PITTM) are supposed to change in a coordinated manner.

As for the ATTM4 tariff period, the CRE is planning to update the new tariffs for each terminal after two years of applying the ATTM5 tariff, i.e. as of 1 April 2019, according to the following terms:

- updating of contracted capacity assumptions and of energy costs (electricity and CO<sub>2</sub> quotas) relative to market conditions;
- updating of non-revenue gas off-take levels in view of the figures recorded;
- clearing of the income and expenditure clawback account balance for the period 2017-2018.

To these elements can be added changes concerning the tariff treatment of non-regulated activities, as well as the treatment of Fos Tonkin in the event a decision for activities to continue beyond 2020.

### **1.3 Capital charges**

#### **1.3.1 Incentives for developing regasification capacities**

In order to give long-term visibility to and to promote the decisions on capacity reservation and investment, the ATTM4 tariffs have kept an incentive to develop new regasification capacities. This incentive takes the form of an additional 200 base point bonus allocated to the rate of return on the assets concerned for 10 years, for extensions of the existing LNG terminals and new terminals, on condition that the increase in regasification capacities represents at least 20% of the infrastructure's initial capacities and that the new capacities created are allocated according to the terms previously approved by the CRE.

At this stage, the CRE is in favour of keeping the incentive scheme that is currently in force for developing regasification capacities. This incentive will be granted on a case-by-case basis based on a specific analysis of the advantages of each project for the market.

### **1.3.2 Incentive-based regulation of investment costs**

The tariffs currently in force provide for a mechanism which gives an incentive to operators to control the costs of their investment projects.

In order to take account of the specific features of each project, only the principles of this mechanism have been fixed during ATTM4:

- for projects that have an incentive regulation mechanism for developing new regasification capacities, the application of the bonus for ten years is capped at the projected investment budget;
- the remuneration of investment expenses that deviate from the projected budget varies according to the level of these deviations;
- the remuneration of assets under construction is suspended beyond the date for the projected implementation of the investments;
- for projects that are subject to a call-for-tender procedure, an exit clause may be introduced for subscribers which can be exercised in the event that the projected cost of the project significantly overruns after detailed studies, subject to the potential stranded costs generated by this clause being covered.

The detailed mechanism that applies to each project concerned is fixed by the CRE's deliberations.

Even though this mechanism has not been applied to any project during the ATTM4 tariff period, CRE is planning to retain it. It deems, in effect, that this allows subscribers who have made a firm commitment to be protected and it provides an initiative for operators with regard to efficiency in their investments.

## **1.4 Operating expenses**

Operating expenses are determined based on all the costs incurred by an efficient operator. This level is fixed based on the analysis of:

- past financial years, from the operator's accounts;
- forecast for changes in charges notified by the operators for the years 2017 to 2020.

The operating expenses correspond to the operational costs needed for the functioning of the LNG plants, and particularly include purchases of energy, external consumption, staff costs, the services billed by the ENGIE group, tax expenses, provisions for dismantling infrastructures as well as the margin connected to the services billed by Elengy to Fosmax.

The so-called "extra-tariff" additional revenue, received independent from the tariffs for using the terminals (mainly: odourisation and metering activities, reimbursable services, contribution of non-regulated services to the terminals' pooled expenses and flexible services) is deducted from operational expenses.

The CRE is currently carrying out an analysis of the 2013-2015 assessment and the 2017-2020 trajectories for operational expenses intended to ensure that the projected expenses presented by the operators for the next tariff period of 2017 to 2020, as provided for by article L.452-1 of the French energy code, to those of an efficient infrastructure operator.

## **1.5 Income and expenditure clawback account**

The income and expenditure clawback account is a fiduciary account which is funded at regular intervals by all or some of the variances in costs or income recorded against these predefined accounts items. Clearing of the balance of this account takes place by reduction or increase of the revenue to be recovered by the tariffs.

To ensure the financial neutrality of the mechanism, amounts included in the income and expenditure clawback account are valued at an interest rate equivalent to the risk-free rate. For the ATTM4, this rate is fixed at 4.0% per annum, nominal before tax.

For the ATTM4 period, the income and expenditure items covered by this mechanism are:

- income from additional subscriptions for regasification capacities, 75 % covered;
- capital charges borne by the operators, 100 % covered;
- Energy expenses and income (electricity and CO<sub>2</sub> quotas), 90 % covered;

- income related to additional subscriptions for the vessel reloading service, 50% covered by the come and expenditure clawback account;
- Income related to the LNG exchange point access service, 50% covered by the income and expenditure clawback account.

For each of the terminals, the balance of the clawback account for the 2013-2014 tariff period has been evaluated then split into four equal instalments for the 2015 to 2018 tariff years. Similarly, the balance of the clawback account for the 2015-2016 tariff period is currently being evaluated for each of the three terminals and will give rise to four equal instalments for the ATTM5 tariff period.

The operators wish to retain the conditions for calculating the income and expenditure clawback account for the next tariff period.

At this stage, the CRE is planning for three main changes to the clawback account mechanism:

- it wishes to review the scope of the revenue connected to additional capacity subscriptions. Indeed, as well as incorporating revenue connected to new subscriptions, this item also includes income connected to regularity charges and charges for the use of regasification capacities on existing subscriptions. The latter are short-term and do not correspond to a commercial effort made by the operators. It is therefore advisable to separate the existing item into two items:
  - one item covering additional revenue connected to new subscriptions in relation to the assumptions indicated in the tariff, which will remain 75% covered in the clawback account;
  - one item covering the additional revenue connected to the subscription assumptions made in the tariff deliberations. This second item will be fully covered in the clawback account;
- it wishes to harmonise the incentives for marketing additional capacities, whether these are unloading capacities or reloading capacities. Therefore the CRE is planning with the clawback account to cover revenue connected to additional subscriptions for the vessel reloading service by up to 75%, instead of 50% as it is currently;
- It wishes to create an item enabling recovery of the variances between projected and actual amounts concerning the pooled costs associated to non-regulated services, such as transshipment or tanker-loading operations. This item will be fully covered in the clawback account;

### **1.6 Rendez-vous clause**

The ATTM4 tariffs have introduced a rendez-vous clause which applies mid-period for the Fos Cavaou and Montoir terminals.

Therefore, at the end of the first two years that the tariffs apply, the difference between the actual operational expenses and the operational expenses stipulated by the tariffs is measured. If this difference is greater than 1% and is due to new charges connected to legislative, regulatory or jurisdictional provisions independent of the activity of an efficient operator, the levels of operational expenses to be covered by the tariffs may be reassessed in order to take account of these new charges, if appropriate, for the next two years. The rendez-vous clause was not activated during the ATTM4 period.

The CRE is planning to carry over a rendez-vous clause under the same conditions for the ATTM5 period. This clause will apply to each of the three regulated LNG terminals.

**Question 1** Are you in favour of the regulatory framework proposed by the CRE for the ATTM5 period?

**Question 2** Are you in favour of the creation of an item fully covered by the income and expenditure clawback account, allowing additional revenue connected to the subscription assumptions made in the tariff deliberations to be covered?

**Question 3** Are you in favour of covering revenue connected to additional subscriptions for the vessel reloading service by up to 75%, instead of 50% as it is currently?

**Question 4** Are you in favour of creating an item enabling recovery of the differences between projected and actual amounts concerning the pooled costs associated to non-regulated services, such as transshipment or tanker-loading operations, that is fully covered in the income and expenditure clawback account?

## 2. TARIFF LEVEL

### 2.1 Assessment of ATTM4 tariffs

#### 2.1.1 Subscriptions

No new subscriptions occurred over the ATTM4 period. Actual subscriptions in volume were therefore identical to the subscriptions provided for.

Average subscriptions over the 2013-2016 period	Fos Tonkin	Montoir	Fos Cavaou
Subscriptions provided for in the tariffs (TWh/year)	40.7	115.0	86.4
Actual subscriptions (TWh/year) (estimated data for 2016)	40.7	115.0	86.4

The number of subscribed (cargoes transported) was faithful to the forecasts for the Montoir and Fos Tonkin terminals. In order to handle individual needs, some shippers have transported a greater number of cargoes than planned at the Fos Cavaou terminal, for an unchanged overall volume.

Reported income connected to subscriptions is greater than forecast, which is explained by irregularities in vessel arrivals, generating greater billings than anticipated on TR charges (regularity charge, as an incentive for those involved to transport as many cargoes in summer as they do in winter) and TUCR (charge for using regasification capacities, as an incentive for those involved to transport more than one cargo per month).

These differences in income are covered up to 75% by the clawback account for the three LNG terminals.

#### 2.1.2 Operating expenses

The operating expenses incurred over the 2013-2016 ATTM4 period are compared to the charges anticipated by the ATTM4 tariff in the table below:

Average operating expenses for the ATTM4 period (in €M)	Fos Tonkin	Montoir	Fos Cavaou
Net operating expenses anticipated in the tariffs	28.66	55.29	47.11
Actual net operating expenses <sup>4</sup>	25.09	47.61	43.23
Difference in €M	-3.57	-7.68	-3.88
Difference as a %age	-12.5%	-13.9%	-8.24%

During the period 2013-2016, the differences between the trajectory of the average net operating expenses fixed by the CRE for the ATTM4 tariff and the trajectory of the actual net expenses produced by the terminals is mainly explained by a lower usage level of the terminals than anticipated, the setting up of a performance plan from 2013 and adapting operations to the activity.

#### 2.1.3 Capital charges

The normative capital charges incurred over the ATTM4 period are compared to the charges anticipated by the ATTM4 tariff in the table below:

<sup>4</sup> As the actual net operating expenses for 2016 are not yet known, the figures given here take account of the best possible estimates for 2016.

Average normative capital charges for the ATTM4 period (in €M)	Fos Tonkin	Montoir	Fos Cavaou
Average annual normative capital charges anticipated in the tariffs	31.55 <sup>5</sup>	55.90	106.11
Actual average annual normative capital charges <sup>6</sup>	29.75	54.21	102.87
Difference in €M	-1.80	-1.69	-3.24
Difference as a %age	-5.7%	-5.4%	-10.3%
Estimated level of the regulated asset base as at 1 January 2017 (€M)	70.19	272.28	720.68

The capital charges are overall lower than the forecast because inflation was lower than anticipated and investments were lower than anticipated.

Level of investment over the ATTM4 period (€M)	Fos Tonkin	Montoir	Fos Cavaou
Anticipated average annual investments	8.03	13.72	2.40
Actual average annual investments	4.50	13.43	2.15
Difference in €M	-3.53	-0.29	-0.25
Difference as a %age	-44.0%	-2.1%	-10.4%

Investments in the Fos Tonkin terminal were reduced given the uncertainty on the future of the terminal after 2020.

The amount of investment in the Montoir-de-Bretagne terminal proves to be less than the projected amounts for the project to reduce minimum flow and for the terminal renovation project. Investments connected to the evaporation compression project were limited and essentially carried forward to the tariff period to come.

For the Fos Cavaou terminal, normative capital charges are less than those forecast particularly because of deferrals of investments.

#### 2.1.4 Income and expenditure clawback account

The balances of the income and expenditure clawback accounts sent by the operators for the 2015-2016 period are currently being analysed. The balances of the clawback accounts from the tariff framework in force will be uniformly cleared over the four years of the next tariff period.

- For the Montoir terminal, the balance of the clawback account sent by the operator would lead to a reduction in the expenses to be covered from the next tariffs of €4.6 million per year. This difference is mainly connected to revenue linked to subscriptions and the vessel reloading service, as well as capital charges that were lower than anticipated.

<sup>5</sup> The tariff defined on 1 April 2013 for the Fos Tonkin terminal took account of the average of the capital charges for 2013 and 2014. The projected normative capital charges for 2015 and 2016 were defined at the time of the deliberation on 5 February 2015 concerning the decision on the change of the LNG terminal tariff on 1 April 2015. The figure displayed corresponds to the average of these two forecasts.

<sup>6</sup> As the actual normative capital charges for 2016 are not yet known, the figures given here take account of the best possible estimates of the normative capital charges for 2016.



- For the Fos Tonkin terminal, the balance of the clawback account sent by the operator would lead to a reduction in the expenses to be covered from the next tariffs of approximately €1.3 million per year. This difference is mainly connected to additional revenue linked to subscriptions as well as capital charges that were lower than anticipated.
- For the Fos Cavaou terminal, the balance of the clawback account sent by the operator would lead to a reduction in the expenses to be covered from the next tariffs of €4.9 million per year. This difference is mainly connected to revenue linked to subscriptions and the vessel reloading service, as well as capital charges that were lower than anticipated.

€m	Differences covered by the clawback account in 2013-2014	Differences covered by the clawback account in 2015-2016	Annual payments			
			2017	2018	2019	2020
Fos Tonkin	-6.0 i.e.-€1.6 million per year from 2015 to 2018	-4.9 i.e.-€1.3 million per year from 2017 to 2020	-2.9	-2.9	-1.3	-1.3
Montoir de Bretagne	-15.1 i.e.-€4.1 million per year from 2015 to 2018	-17.0 i.e.-€4.6 million per year from 2017 to 2020	-8.7	-8.7	-4.6	-4.6
Fos Cavaou	-16.9 i.e.-€4.6 million per year from 2015 to 2018	-18.0 i.e.-€4.9 million per year from 2017 to 2020	-9.4	-9.4	-4.9	-4.9

## 2.2 Requests from operators for the ATTM5 tariffs

### 2.2.1 Subscriptions

The levels of use of the LNG terminals are currently low, around 25%. Because of this, with regard to unloading operations, the projected subscriptions proposed by the operators are equal to the subscriptions already in the portfolio:

Contracted capacities (TWh)	Average ATTM4 level	Contracted capacities			
		2017	2018	2019	2020
Fos Tonkin Maximum technical capacity since 2015: 35 TWh	40.7	35.0	35.0	35.0	35.0
Montoir de Bretagne Maximum technical capacity: 123 TWh	115.0	106.9	106.9	106.9	102.9
Fos Cavaou Maximum technical capacity: 97 TWh	86.4	87.2	87.2	87.2	87.2

### 2.2.2 Authorised income

The figures below correspond to operator requests.

In their request, the operators have calculated the capital charges based on a remuneration rate constructed like the WACC from the gas transport activity at 6.5% (value in force in the ATRT5 tariff<sup>7</sup>) plus a bonus of 200 base points.

<sup>7</sup> Access by Third Parties to the Gas Transport Networks

**2.2.2.1 Fos Tonkin**

€m	ATTM4 level 2015/16	Operator request				ATTM5 average request
		2017	2018	2019	2020	
Operating expenses	29.41	27.84	27.36	27.75	25.99	27.23
Standard capital charges	30.67	28.59	26.07	22.47	10.86	22.00
CRCP clearing	-6.78	-2.94	-2.94	-1.33	-1.33	-2.14
Authorised income	53.30	53.49	50.49	48.89	35.49	47.09

The trajectory requested for the Fos Tonkin terminal represents an average drop of 12% in authorised revenue. This drop breaks down as follows:

- -4.0% connected to the drop in operating expenses;
- -15.9% connected to the drop in capital charges;
- +8.5% connected to a lower amount of income and expenditure clawback account to be cleared over the ATTM5 period compare to ATTM4.

Given the change in subscriptions anticipated by the operator, this drop in authorised income is manifested by a tariff reduced by -13.9% compared to that of the second ATTM4 period.

From this data, the Fos Tonkin terminal's average tariff would consequently go from €1.562/MWh to €1.345/MWh for the period from 1 April 2017 to 31 March 2019.

**2.2.2.2 Montoir**

€m	ATTM4 level 2015/16	Operator request				ATTM5 average request
		2017	2018	2019	2020	
Operating expenses	55.91	52.94	50.61	49.94	50.29	50.94
Standard capital charges	55.90	52.02	50.90	49.80	48.90	50.41
CRCP clearing	-6.34	-8.68	-8.68	-4.59	-4.59	-6.63
Authorised income	105.47	96.28	92.84	95.15	94.60	94.72

The trajectory requested represents, for the Montoir terminal, an average drop of approximately 11% in authorised revenue. This drop breaks down as follows:

- -5.3% connected to the drop in operating expenses;
- -5.8% connected to the drop in capital charges;
- -0.3% connected to clearing the clawback account;

Given the change in subscriptions anticipated by the operator, this drop in authorised income is manifested by a tariff reduced by -0.7% compared to that of the second ATTM4 period.

From this data, the Montoir terminal's average tariff would consequently go from €0.900/MWh to €0.894/MWh for the period from 1 April 2017 to 31 March 2019.

## 2.2.2.3 Fos Cavaou

€m	ATTM4 level 2015/16	Operator request				ATTM5 average request
		2017	2018	2019	2020	
Operating expenses	47.43	44.10	47.81	49.30	49.85	47.77
Standard capital charges	105.55	98.69	97.30	96.24	95.03	96.81
CRCP clearing	-0.55	-9.42	-9.42	-4.86	-4.86	-7.14
Authorised income	152.42	133.37	135.69	140.69	140.03	137.44

The trajectory requested represents, for the Fos Cavaou terminal, an average drop of approximately 10 % in authorised revenue. This change breaks down as follows:

- -0.5% connected to the drop in operating expenses;
- -5.6% connected to a drop in capital charges;
- -4.3% connected to clearing the clawback account;

Given the change in subscriptions anticipated by the operator, this drop in authorised income is manifested by a tariff reduced by -11.9% compared to that of the second ATTM4 period.

From this data, the Fos Cavaou terminal's average tariff would consequently go from €1.773/MWh to €1.562/MWh for the period from 1 April 2017 to 31 March 2019.

**Question 5** Do you have any comments on the ATTM4 assessment and the tariff requests from the operators for ATTM5?

## 2.3 The CRE's preliminary analysis

### 2.3.1 Subscriptions

The current market conditions are uncertain for LNG. Even though new regasification capacity subscriptions in French terminals are possible, at this stage the CRE considers that uncertainty warrants using the current subscriptions as projections. In addition, as the terminals have low usage, new incomers may use the secondary market.

These assumptions will be updated on 1 April 2019 for 2019 and 2020.

### 2.3.2 Capital charges

Capital charges comprises firstly depreciation and secondly the financial return on fixed capital. The calculation of these components is drawn up from the valuation of the Regulated Assets Base (RAB) and the weighted average cost of capital.

At this stage, the CRE anticipates carrying over the principles for calculating capital charges adopted during previous tariff financial years, while amending its assessment of the rate of return from terminal activities.

#### 2.3.2.1 Calculating the Regulated Asset Base (RAB)

For the Fos Tonkin and Montoir terminals, the CRE undertook a revaluation on 31 December 2002 of the historical value of the operator's assets, on the basis of a "current economic costs" method comparable to that used for transmission assets by the Special Commission instituted by Article 81 of the amended finance bill of 28 December 2001, tasked with setting the price of disposal, by the French state, of its natural gas transmission systems.

Therefore, assets employed before 31 December 2002 are valued by means of adjusting the historical cost for inflation, using the following method:

- historical gross asset values are adjusted for the revaluation variances permitted in 1976, subsidies received in respect of carrying out these investments, and contributions received from the beneficiaries of these investments;
- these restated gross values were re-valued as at 31 December 2002 by applying the "market-sector GDP" price index;
- these adjusted gross values are then depreciated using the straight-line method on the basis of the economic lifespan of the various asset categories. Assets are deemed to have become operational on 1 July of the relevant year.

Some asset categories receive special treatment:

- vehicles, fittings, micro-computing hardware, minor equipment, etc. are included on the basis of their net book value;

Assets becoming operational between 1 January 2003 and 31 December 2016 are included in the RAB at their gross value<sup>8</sup>. Investment planned from 1 January 2017 is included at its gross forecast value as submitted by Elengy and Fosmax LNG.

The nominal date on which assets enter the inventory has been set at 1 July each year, and they are removed on 30 June. Only assets actually in service are included within the RAB.

For the Fos Cavaou terminal, the initial RAB was established by taking account of investments plus operating expenses and financial costs prior to the terminal's entry into service. The date selected as the terminal's entry into service for the tariff is the actual date it entered into service, i.e. 1 April 2010.

Once assets are included within the RAB, their value is updated using the following method:

- assets are re-valued on 1 January each year using the rate of inflation for the period July to July. The revaluation index used is INSEE (French national statistics office) index 1763852 (constructed from index 641194 historically used by the CRE) of consumer prices excluding tobacco for the whole of France;
- assets are depreciated using the straight-line method on the basis of their economic lifespan. The lifespans used for asset depreciation after 31 December 2002 are identical to those used to adjust the value of assets brought into service prior to that date.

The lifespans used for the main categories of industrial assets are set out in the following table for the Montoir and Fos Cavaou terminals:

Industrial asset category	Economic lifespan (years)
Re-gasification facilities	40
Civil engineering and buildings	40
Storage facilities	40
Other facilities (flares, tools, etc.)	40
Ancillary and unloading facilities	20
Equipment (remote operations, gas quality analysers, etc.)	10
Property	30
Miscellaneous equipment (vehicles, etc.)	10
Minor equipment (micro-computers, etc.)	5

For the Fos Tonkin terminal, in accordance with the provisions stipulated at the Fos Tonkin Open Season and confirmed through the CRE's deliberations on 7 July 2011, the depreciation period has been changed to take account of a potential shut-down of the terminal in 2020. In the event that a decision is taken to extend the useful life of the terminal, the useful lives of the assets will be reviewed as a result.

<sup>8</sup> Assets becoming operational between 1 January 2016 and 31 December 2016 are included in the RAB at their gross projected value.



As at 1 January 2017, the RAB values of the Montoir, Fos Tonkin and Fos Cavaou terminals are as follows:

€m	Fos Tonkin	Montoir	Fos Cavaou
Regulated asset base	70	272	721

### 2.3.2.2 Rate of return on assets

The rate of return on assets is historically constructed from a basic rate of return and a bonus connected to the LNG terminal operating activity.

The method adopted to evaluate the basic rate of return is based on the weighted average cost of capital (WACC), for a standard financial structure. Indeed, the operator's return should firstly enable it to service the interest payments on its borrowing, and secondly generate a yield on shareholders' equity comparable to that which it could have obtained in addition from investments entailing a comparable level of risk.

This cost of capital is estimated using the methodology known as the capital asset pricing model (CAPM).

In the ATTM4 tariff, the CRE used the WACC for gas transmission activities as the basic rate to estimate the cost of capital for LNG terminals given the absence of a relevant comparable sample to determine the main factors involved for LNG terminal operation activities. A bonus of 200 base points is applied to the gas transport WACC to take account of the specific risks of LNG terminal operation activities compared with network activities. In fact, LNG terminals are facilities that are concentrated on a single site, away from urban areas and dependent on a limited number of customers. In the event of a technical failure or accident that makes all or part of the facility unavailable, or of the failure of a capacity subscriber, there is the risk that loss of revenue could be substantial and may not be able to be offset by other facilities or other customers. Moreover, the very long-term continuation of operations on any site, when current capacity subscription contracts in the portfolio come to an end, is not guaranteed.

As part of the work on ATTM5, the CRE is re-examining the assumptions and parameters selected for calculating the rate of return on the LNG terminals. In particular, it has entrusted a study to an external consultant on:

- the audit and critical analysis of the request for remuneration from the French operators of LNG terminals. This audit particularly concerned the analysis of the justification for the remuneration requested by the operators;
- the relevance of establishing a WACC specific to the activity of the LPG terminals.

As this regards the relevance of establishing a specific WACC, the consultant concludes that, given the lack of companies operating LNG terminals listed on the stock exchange, the cost of equity (and therefore WACC) cannot be assessed directly from the market data from companies carrying out this activity.

With regard to the request from the operators for a rate of return constructed like the WACC for the gas transport activity plus a remuneration bonus of 200 base points, the consultant deems that the asymmetry of the yield from the regulated LNG terminals<sup>9</sup> can justify the setting up of a specific bonus. Furthermore, by using the methodology developed by the consultant mandated by the operators, the WACC bonus would be between 0.9% and 2.5% inclusive.

Basing its findings on the operator's request, the conclusions of the consultant mandated by the CRE, and the assessment by the CRE of the LNG terminals' risk in relation to transport activity, the CRE envisages that this stage that an approach should be retained which is based on the rate of return of the transport plus a remuneration bonus.

In its public consultation of 27 July 2016 relating to the access tariff to the gas transport network for the period known as ATRT6, the CRE proposes to use a WACC (actual, before tax, of between 4.75% and 5.5% inclusive. Based on this WACC range and by using the method developed by the consultant mandated by the operators, the CRE is anticipating selecting a bonus specific to LNG activity which may be between 1.0% and 2.4%.

### 2.3.2.3 Capital charges trajectory

By way of an illustration, the following tables represent the potential effects of an adjustment to the rate of return on capital charges trajectories, by using the trajectories of the investments made by the LNG terminal operators. The WACC (actual, before tax) considered for this illustration is fixed at 5.25% plus a specific bonus of 200 base points (bp), values which are within the range is anticipated by the CRE for transport activity and for the bonus specific to LNG activity.

<sup>9</sup> Compass Lexecon, Assessment of the WACC for regulated activities of Elengy and Fosmax LNG for the ATTM5 period, August 2016.

The sensitivity of capital charges to a variation in the rate of return is also given below for each terminal.

<b>Projected normative capital charges for Fos Tonkin (Current €m)</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>
Request from Elengy	28.59	26.07	22.47	10.86
WACC scenario at 5.25% +200 bp	27.71	25.44	22.10	10.77
Difference	-0.88	-0.63	-0.37	-0.09

The average annual level of normative capital charges over the ATTM5 period calculated based on a WACC for the gas transport activity of 5.25% and a remuneration bonus of 200 base points is €21.5 million per year, which would reduce the terminal's unit cost by 1.1%.

The sensitivity of normative capital charges to a drop of 25 base points in the rate of return is €0.1 million per year over the ATTM5 period, i.e. an additional drop of 0.2% in the tariff compared to the operator's request<sup>10</sup>.

<b>Projected normative capital charges for Montoir (Current €m)</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>
Request from Elengy	52.02	50.90	49.80	48.90
WACC scenario at 5.25% +200 bp	48.49	47.43	46.52	45.76
Difference	-3.53	-3.47	-3.28	-3.14

The average annual level of normative capital charges over the ATTM5 period calculated based on a WACC for the gas transport activity of 5.25% and a remuneration bonus of 200 base points is €47.1 million per year, which would reduce the terminal's unit cost by 3.5%.

The sensitivity of normative capital charges to a drop of 25 base points in the rate of return is €0.67 million per year over the ATTM5 period, i.e. an additional drop of 0.7% in the tariff compared to the operator's request.

<b>Projected normative capital charges for Fos Cavaou (Current €m)</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>
Request from Fosmax LNG	98.69	97.30	96.24	95.03
WACC scenario at 5.25% +200 bp	89.66	88.51	87.65	86.61
Difference	-9.03	-8.79	-8.59	-8.42

The average annual level of normative capital charges over the ATTM5 period calculated based on a WACC for the gas transport activity of 5.25% and a remuneration bonus of 200 base points is €88.1 million per year, which would reduce the terminal's unit cost by 6.3%.

The sensitivity of normative capital charges to a drop of 25 base points in the rate of return is €1.74 million per year over the ATTM5 period, i.e. an additional drop of 1.3% in the tariff compared to the operator's request.

<sup>10</sup> According to the CRE's deliberations of 7 July 2011, the assets of the Fos Tonkin terminal will depreciate at an accelerated rate by 2020. The sensitivity of normative capital charges to a variation in the rate of return is low, as the normative capital charges are essentially composed of the depreciation of assets.

### 2.3.3 Trajectory of net operating costs

CRE departments are carrying out an analysis of Elengy's and Fosmax LNG's requests concerning net operating costs. These costs incorporate assumptions of the refunding of the share of non-regulated service revenue corresponding to the terminals' pooled usage costs (use of infrastructure, personnel). The departments in question are tanker loading and transshipments.

The projected net operating costs submitted by the operators for the 2017-2020 ATTM5 period are as follows:

<b>Fos Tonkin (in €M) current</b>	<b>2015 Actual</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>
Net operating expenses	24.93	26.84	26.31	26.64	25.99

Fos Tonkin's net operating costs request would, for the period 2017 to 2020, lead to an increase of €1.5 million, i.e. +6.6% compared to the actual figures for 2015.

The increase can be explained mainly by:

- projected expenses connected to decisions which will be made by Elengy regarding the future of the Fos Tonkin terminal,
- the drop in revenue relating to services for the exchange of waste heat and cold with Liquid Air.

<b>Montoir (in €M) current</b>	<b>2015 Actual</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>
Net operating expenses	48.30	52.24	49.87	49.16	49.48

Montoir's net operating costs request would, for the period 2017 to 2020, lead to an increase of €1.9 million, i.e. +3.9% compared to the actual figures for 2015.

This change is explained mainly by the change in purchases of energy connected with the rate of use of the terminal (volume effect), partly compensated by the increase in extra-tariff revenue connected to a transfer of expenses for the non-regulated activity of the transshipment department.

<b>Fos Cavaou (in €M) current</b>	<b>2015 Actual</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>
Net operating expenses	41.24	43.34	47.01	48.46	48.97

Fos Cavaou's net operating costs request would, for the period 2017 to 2020, lead to an increase of €5.7 million, i.e. +13.8% compared to the actual figures for 2015.

The increase can be explained mainly by:

- the change in services re-invoiced by Elengy on behalf of Fosmax,
- the increase in taxes and duties (essentially the increase in property tax),
- the reduction of extra-tariff revenue (not covered in the trajectory of transfers of costs for the transshipment activity) and capital production costs.

At this stage of its analysis, the CRE is anticipating the following adjustments on the trajectories of net operating costs submitted by the operators:

<b>Fos Tonkin (in €M) current</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>
Anticipated adjustments	-1.105	-1.341	-1.328	-1.302
Impact on Elengy's request	-4.1%	-5.1%	-5.0%	-5.0%

<b>Montoir (in €M) current</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>
Anticipated adjustments	-2.128	-1.328	-1.420	-1.259
Impact on Elengy's request	-4.1%	-2.7%	-2.9%	-2.5%

<b>Fos Cavaou (in €M) current</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>
Anticipated adjustments	-2.253	-1.893	-1.032	-0.637
Impact on Fosmax LNG's request	-5.2%	-4.0%	-2.1%	-1.3%

These adjustments have been shared with the operators. The main adjustments concern the revenue from vessel reloading not anticipated in their request and corrections regarding the amount of costs transferred to non-regulated activities.

Some points are still being analysed, mainly:

- the services carried out by the Engie group which are the subject of a management fee's contract have not been able to be clearly identified,
- the insurance item.

### 2.3.4 Summary

The level finally chosen by the CRE will depend on the final elements to be analysed in certain items.

At this stage the CRE considers that the level of net operating costs for the operators may be between a "high range" corresponding to the request from the operators and a low range established based on the adjustments anticipated above.

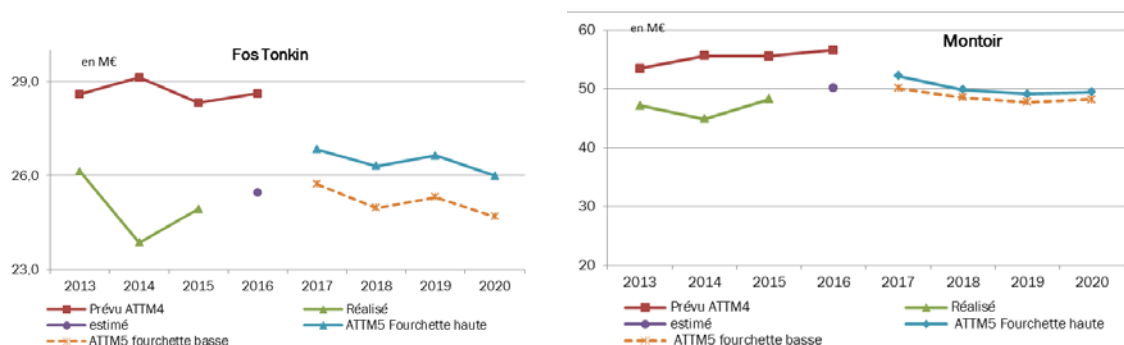
For Montoir, the low trajectory has been established at €49.41 million and the high range at €50.94 million on average per year over the 2017-2020 period.

For Fos Tonkin, the low trajectory has been established at €25.97 million and the high range at €27.23 million on average per year over the 2017-2020 period.

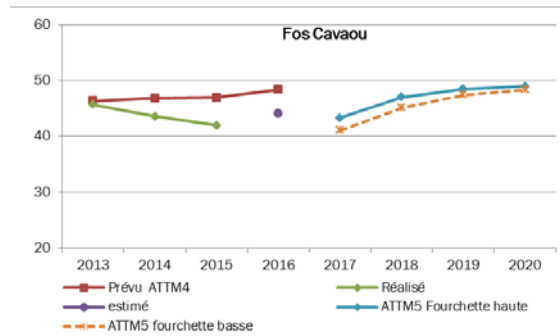
For Montoir, the low trajectory has been established at €46.19 million and the high range at €47.77 million on average per year over the 2017-2020 period.

The levels remain lower than those reported in 2015.

The trajectories relating to these net operating costs are therefore:







At this stage, the CRE has the analysis carried out on the operators' operating costs and audit reports on the rate of return on their capital and on specific WACC.

The CRE gives a possible change range in the tables below, by selecting:

- for capital charges: a high range corresponding to a WACC fixed at 5.5% plus a bonus of 240 base points and a low range corresponding to a WACC fixed 4.75% plus a bonus of 100 base points;
- for operating costs: a high range corresponding to the request from the operators, and a low range corresponding to the adjustments anticipated by the CRE;
- for subscriptions: the existing subscriptions.

The level finally selected by the CRE will depend on the results of the analyses which are still in progress on the anticipated adjustments.

The CRE gives a range of change in authorised income and the average tariff in the tables below.

<b>Fos Tonkin In €M - current</b>	<b>ATTM4 average 2015/16</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>ATTM5 average</b>	<b>Change in ATTM5 vs ATTM4 2015/16</b>
Net OPEX – low range	29.41	26.74	26.02	26.42	24.69	25.97	-12.10%
Net OPEX – high range		27.84	27.36	27.75	25.99	27.23	-7.80%
Normative capital charges – low range	30.67	26.63	24.65	21.62	10.65	20.89	-31.9%
Normative capital charges – high range		28.15	25.75	22.28	10.80	21.75	-29.1%
Clearing the clawback account	-6.78	-2.94	-2.94	-1.33	-1.33	-2.14	-68.46%
<b>Authorised income – low range</b>	53.30	<b>50.42</b>	<b>47.73</b>	<b>46.70</b>	<b>34.00</b>	<b>44.71</b>	<b>-16.11%</b>
<b>Authorised income – high range</b>		<b>53.05</b>	<b>50.17</b>	<b>48.69</b>	<b>35.46</b>	<b>46.84</b>	<b>-12.12%</b>
<b>Average tariff – low range</b>	1.56					<b>1.27</b>	<b>-18.54%</b>
<b>Average tariff – high range</b>						<b>1.34</b>	<b>-14.39%</b>

<b>Montoir - In €M current</b>	<b>ATTM4 average 2015/16</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>ATTM5 average</b>	<b>Change in ATTM5 vs ATTM4 2015/16</b>
Net OPEX – low range	55.91	50.81	49.28	48.52	49.03	49.41	-11.63%
Net OPEX – high range		52.94	50.61	49.94	50.29	50.94	-8.89%
Normative capital charges – low range	55.90	44.30	43.32	42.63	42.03	43.07	-22.96%
Normative capital charges – high range		50.30	49.22	48.21	47.37	48.77	-12.75%
Clearing the clawback account	-6.34	-8.68	-8.68	-4.59	-4.59	-6.63	4.55%
<b>Authorised income – low range</b>	105.47	<b>86.43</b>	<b>83.92</b>	<b>86.56</b>	<b>86.47</b>	<b>85.85</b>	<b>-18.61%</b>
<b>Authorised income – high range</b>		<b>94.56</b>	<b>91.15</b>	<b>93.55</b>	<b>93.07</b>	<b>93.08</b>	<b>-11.74%</b>
<b>Average tariff – low range</b>	0.900					<b>0.805</b>	<b>-10.59%</b>
<b>Average tariff – high range</b>						<b>0.878</b>	<b>-2.48%</b>

Fos Cavaou - In €M current	ATTM4 average 2015/16	2017	2018	2019	2020	ATTM5 average	Change in ATTM5 vs ATTM4 2015/16
Net OPEX - low range	47.43	41.85	45.92	48.27	49.22	46.31	-2.3%
Net OPEX - high range		44.10	47.81	49.30	49.85	47.77	0.7%
Normative capital charges - low range	105.55	78.84	77.97	77.33	76.51	77.66	-26.42%
Normative capital charges - high range		94.36	93.08	92.12	90.99	92.64	-12.2%
Clearing the clawback account	-0.55	-9.42	-9.42	-4.86	-4.86	-7.14	
Authorised income - low range	152.42	111.27	114.48	120.74	120.88	116.84	-23.35%
Authorised income - high range		129.04	131.48	136.56	135.99	133.27	-12.6%
Average tariff - low range	1.773					1.310	-26.11%
Average tariff - high range						1.511	-14.78%

**Question 6** What do you think about the calculation method envisaged by the CRE to set the rate of return on LNG terminal assets?

**Question 7** What you think about the rate of return envisaged by the CRE to remunerate the regulated asset base of the LNG terminals?

**Question 8** Do you agree with the adjustments envisaged by the CRE on operating costs as requested by the operators?

### 3. TARIFF OFFERING AND STRUCTURE

#### 3.1 Proposed services

##### 3.1.1 Assessment of proposed services

Under the ATTM4 tariff, three regasification services are offered by the regulated LNG terminals:

- the S-Smart continuous send-out service is for users that schedule more than one vessel per month on average across the year. For this service, the daily send-out is set by the terminal operator in order to be as regular as possible, on the basis of the terminal's overall send-out schedule. This service can be booked from the first unloading.
- The S-30 band service is for users that schedule less than one vessel per month on average across the year and which book a total annual capacity of less than 12TWh for this service. In addition, for the Montoir and Fos Tonkin terminals, the sum of the regasification capacities contracted, for each month, by all the "band" service users, may not be higher than one-third of the terminal's total monthly capacity. The send-out of a cargo using the band service is done with a constant send-out over 30 days. In addition, the CRE's deliberation of 5 February<sup>11</sup> 2015 requires Elengy and Fosmax LNG to offer users of the regulated terminals who so wish, as of 1 April 2015 and temporarily until a single gas exchange point is created:
  - the option of sending out on the gas transmission network in a band with a period of 20 to 30 days;
  - for Fos terminal users, an interruptible service enabling them to send out on the gas transmission network in a band with a duration of 20 to 60 days. The send-out service with a range of 40 to 60 days can be offered only if it will have a low impact on send-outs by other users of the Fos terminals.
- The S-Spot spot service is reserved for unloading operations booked, for a given month M, after the 20<sup>th</sup> day of month M-1. Booking is done on the basis of the available capacities in the monthly schedule on the booking date. The send-out profile of users that have booked the S-Spot service tends to be for a range of 30 days from the unloading end date, provided that the send-outs planned for other users in the monthly schedule do not change by more than 10% each day.

The continuous S-Smart service, which enables uninterrupted send-out to the transmission network for users that bring in cargoes on a regular basis, is intended to be the basic service offered by each terminal. It is currently the most booked service, by long-term users in particular.

The S-Spot service has not been booked by any participant during the ATTM4 period, for all terminals combined.

Under current market conditions, the band service has few subscriptions from those in the market. There have not been any new band subscriptions for five years. The last operation took place in 2015 at the Montoir terminal:

Number of cargoes books for the band service	2013	2014	2015	2016 (p)
Fos Tonkin	0	0	0	0
Montoir de Bretagne	17	16	1	0
Fos Cavaou	0	0	0	0

##### 3.1.2 Anticipated changes

The coexistence of three services in the current offering of the regulated terminals creates restrictions for the sole service which currently has subscriptions, the continuous service, in order to be able to accommodate potential new band or "spot" subscriptions. This coexistence means that the visibility and flexibility of the continuous service users is reduced, although they are currently the only ones who bear the terminal's costs via the regulated tariff.

As part of the LNG consultation, in order to give more promotion to "continuous" service long-term capacities, some key players have proposed the removal of the "band" service. In its first public consultation, the CRE questioned market players on this point, by reminding them that the LNG consultation participants are currently users that hold capacities in the regulated LNG terminals and that, on this basis, they represent only a proportion of the potential users of the terminals.

<sup>11</sup> Deliberation of the CRE of 5 February 2015 on the decision of 1 April 2015 relating the tariffs for the use of regulated LNG terminals

Only a few players in the market responded to the CRE's public consultation on this point, including three holders of continuous service capacity. They are in the main in favour of merging the band and continuous services, in order to create a single offering. Three shippers deemed that this would give more visibility to the LNG terminal offerings and would provide more flexibility to users of the terminal. Only one stakeholder underlined the importance of maintaining an offering that was suitable to individual customers.

In their proposal, the operators proposed to create a basic service, identical to the current continuous service, which is accessible to all shippers from the first cargo transported. In addition to this service, each shipper would have the possibility of subscribing to a paying band option, enabling it to smooth its send-outs over a 30-day range. The "spot" service will be retained.

### **3.1.2.1 The operators' proposals**

#### **3.1.2.1.1 Basic service**

The basic service will be accessible to any shipper from the first booking.

The spread of the physical send-outs from the terminal between the shippers would be done according to the volumes of LNG unloaded and reloaded during the month, as well as the level of stock at the start of the month and the projected stock at the end of the month.

The rules for calculating the end-of-month stock would be the same for the three terminals and identical to those for the continuous service which applied at the Elengy terminals during ATTM4: the stock level for a shipper is determined by supposing a uniform send-out of the last cargo unloaded during month M up to the day of unloading the first cargo of month M+1 or up to the last day of month M+1 if no unloading is planned.

The customers of the basic would, from the first reserved unloading, access all of the flexible services offered by the terminal operators, such as dedicated storage, send-out flexibility, subscription accounts and pooling of intra-monthly capacities between terminals.

The operators would like to be able to anticipate their initiative with the start of sending out an isolated cargo of one or two days, in order to minimise the impact of this cargo on the other terminal clients. In this case, the shipper concerned would not be obliged to have a guarantee corresponding to the anticipated volumes of send-outs.

#### **3.1.2.1.2 Band option**

The operators propose to supplement the basic service with a band option, in order to have an offering that is close to the band service that exists in the ATTM4 tariff. The planned option tariff would be in addition to the price for subscribing to the basic service.

Subscription to this option would cause the send-out of a cargo in the form of a constant send-out band, over a period of 30 days from the date of unloading the cargo.

This option would be accessible to any shipper who has a basic service subscription, from the publication of the annual unloading schedule by the operator and up to its request for the monthly schedule for the month of unloading (before the 20th day of M-1), according to the first-come/first-served principle.

A shipper may, in addition and for each terminal, subscribe to:

- one band-option cargo per month;
- an annual quantity of 12 TWh in band option.

Elengy proposes that, for a given month, the total quantities unloaded with the band option cannot be greater than 10% of the total monthly capacity of the terminal. Fosmax LNG proposes to retain the following limitation: the annual capacity subject to the band option and/or to the "spot" service cannot be greater than 10% of the marketed capacities.

The operators deem that the value of the band option is between €0.01/MWh and €0.4/MWh. They propose to use the value of €0.1/MWh.

#### **3.1.2.1.3 "Spot" Service**

The operators propose to maintain a "spot" service for unloading operations subscribed to after the 20th day of month M-1 for month M.

Currently, the send-out profile for a "spot" cargo tends to be for a range of 30 days from the unloading end date, provided that the send-outs notified to other terminal users in the monthly schedule do not change by more than 10% each day. The operators consider that this generates restrictions for existing terminal clients, which affects their appeal. They propose that the sent-out profile of a "spot" cargo for month M be determined by the operator upon request from the shipper, and calculated so as to correspond to the shipper's request, on condition that its

impact on the daily send-outs of other shippers, in order to make the space necessary in the tanks before the cargo arrival date, does not exceed a fixed threshold of approximately 35 GWh/day.

The band option is not accessible to the "spot" shipper during unloading month M, conversely this shipper will have access to it to send out the residual quantity of LNG for month M+1.

As part of a "spot" unloading operation, the operator may decide, on its initiative, to perform the associated send-out early, within a two-day limit as proposed in the LNG consultation, in order to limit the impact of this on other clients.

The flexible services proposed by terminal operators, such as dedicated storage, sent-out flexibility, the subscription account and pooling of intra-monthly capacities between terminals, would not be accessible to "spot" clients.

The "spot" service is currently subject to a tariff rebate of 25% over the quantity unloaded term (TQD). The operators propose that this rebate should not be fixed, but be variable, depending on the monthly activity of each terminal. The operators propose the following mechanism:

- on the 25th day of month M-1, the operators publish the scheduled available capacities for each terminal for the following month M;
- if, on the 25th day of the month M-1, the terminal's available capacity is less than 20% of nominal capacity, the "spot" TQD tariff would be 100% of that of the basic tariff for month M;
- if, on the 25th day of the month M-1, the terminal's available capacity is between 20% and 60%, the "spot" TQD tariff would be 75% of that of the basic tariff for month M;
- if, on the 25th day of the month M-1, the terminal's available capacity is greater than 60% of nominal capacity, the "spot" TQD tariff would be 50% of that of the basic tariff for month M.

### 3.1.2.2 The CRE's preliminary analysis

The CRE considers that the creation of a single service would contribute to simplifying the terminals' offering, while ensuring continuity with the major principles of the ATTM4 offering, therefore it is in favour of this.

The CRE notes that the band option proposed by the operators gives less flexibility to subscribers than the current band service. In effect:

- The send-out period would be fixed at 30 days, as opposed to the possibility of sending out over periods of 20 to 30 days, or even up to 60 days at Foss Cavaou in certain cases at the moment;
- the restrictions on total capacity which can be subscribed to under the band option are greater than those laid down for the current band service for the Elengy terminals: under the ATTM4 tariff, 10% of the monthly capacity of the Fos Cavaou terminal and one third of the monthly capacity of the Montoir and Fos Tonkin terminals can be subscribed to under the band service.

The CRE is in favour of creating a band option, so that the possibilities currently offered to terminal users are maintained in ATTM5. At this stage, the CRE wishes that the possibilities currently offered to subscribers to the band service, with regard to the send-out period and capacity which can be reserved in the band option, are also part of the offering associated with the band option.

The CRE is in favour of creating a band option charge to reflect the value provided by this option to its subscribers. It nevertheless deems that the operators' proposal for a charge of €0.1/MWh, which would add 5 to 10% to the cost of an operation, is too high. The band service currently has a cost close to that for the continuous service. At this stage, the CRE deems that an option cost of €0.05/MWh is sufficient and less disadvantageous for clients interested in this option.

The CRE deems that retention of the "spot" service is necessary to allow terminals to accommodate cargoes, including on short notice, when there is demand. It is, at this stage, in favour of the operators' proposal.

The CRE deems that the pricing of the "spot" service as proposed by the operators, taking account of the usage rate of the terminals, allows the terminals' appeal to be increased when this is beneficial for the terminal and for the downstream market, while ensuring that the terminal's costs are covered. This proposal reduces the risks of LNG shortage and means that "spot" operations are not favoured with respect to other operations in the event of a strong recovery of LNG. The CRE is therefore in favour of this proposal at this stage.

**Question 9** Are you in favour of the creation of a basic service as per the conditions proposed by the

operators?

**Question 10** Are you in favour of setting up a band option? Do the conditions proposed by the operators seem acceptable to you or would you, like the CRE, wish them to retain the flexibility associated with the current band service? What, in your opinion, should be the tariff for this option?

**Question 11** Are you in favour of retaining the "spot" service under the conditions proposed by the operators, and with the pricing proposed by the operators?

### 3.1.3 Other services

#### 3.1.3.1 Tanker loading

In its tariff deliberations on 13 December 2012, the CRE considered that the tanker-loading service did not come under regulated services. The operators can therefore fix the price to supply this service themselves. It has also specified that it will carry out an assessment of this service and that it may modify the tariff conditions which apply to it.

Tanker-loading activity intensified during the ATTM4 period: in 2015, more than 1500 tanker-loading operations were carried out at the Elengy terminals.

Given this growing market demand and in order to be able to develop this activity, Elengy is requesting a stable regulatory framework for this activity.

In order to meet this demand, the CRE is planning to subject this service to the following conditions:

- complete allocation to the tanker-loading service of the additional expenses caused by the supply of the latter;
- allocation in due proportion, through suitable accounting measures, of the charges resulting from the pooled use of assets and of the operating costs currently covered by the tariffs for using regulated activities through the application of objective audited allocation criteria by the CRE.

**Question 12** Are you in favour of the tariff treatment for tanker loading envisaged by the CRE?

#### 3.1.3.2 Trans-shipments

##### 3.1.3.2.1 Montoir Terminal

The CRE's deliberations of 23 May 2013<sup>12</sup> defined the marketing conditions for a transshipment service of LNG cargoes at the Montoir terminal. The CRE asked Elengy to create a dedicated subsidiary.

The implementation of this service has required investments relating to the renovation of one of the two jetties at the terminal.

As part of this service, transshipment operations are subject to the following conditions:

- complete allocation to the transshipment service of the additional expenses caused by the supply of the latter;
- allocation in due proportion, through suitable accounting measures, of the charges resulting from the pooled use of assets and of the operating costs currently covered by the tariffs for using regulated activities through the application of objective audited allocation criteria by the CRE.

Three transshipment operations were carried out in 2013 and one in 2014.

<sup>12</sup> CRE deliberation of 23 May 2013 concerning the decision relating to the marketing of a transshipment service at the Montoir-de-Bretagne LNG terminal operated by Elengy

### 3.1.3.2.2 Fos Cavaou terminal

In its deliberations of 15 July 2015<sup>13</sup>, the CRE authorised Fosmax LNG to market a transhipment service at Fos Cavaou. This service is similar to that proposed at the Montoir terminal, except for two points:

- it only uses one single jetty, as opposed to two at Montoir;
- Fosmax uses a service provider for transferring the LNG.

Fosmax has been able to provide this service since December 2015 but this service does not yet have any subscribers. Fosmax LNG requests that this service is extended.

The CRE is anticipating making the extension of this service part of the next tariff deliberations. The CRE deems that this service would strengthen the appeal of the terminal by diversifying its activity.

These operations are subject, just as for the Montoir terminal, to the following conditions:

- complete allocation to the transhipment service of the additional expenses caused by the supply of the latter;
- allocation in due proportion, through suitable accounting measures, of the charges resulting from the pooled use of assets and of the operating costs currently covered by the tariffs for using regulated activities through the application of objective audited allocation criteria by the CRE.

### 3.1.3.3 Dedicated stock service

- Montoir Terminal

The CRE's deliberations of 13 November 2013<sup>14</sup> enabled an experiment to be set up concerning the improvement of send-out flexibility at the Montoir-de-Bretagne LNG terminal, under the business name Nominate. This flexibility is possible through using one dedicated stock per client, up to 20% of the in-tank stock (500 GWh).

The dedicated stock is available to clients proportionate to their subscriptions. Reallocations are carried out in the case of new subscriptions to the continuous service. Each week, clients submit their sent-out flexibility requests for the following week and the operators confirm the feasibility of these to them.

Elengy proposes extending this service under the ATTM5 tariff by increasing the volume of dedicated stock to 625 GWh. This capacity will be offered to all subscribers and spread out on an annual basis. This increase is made possible by the commissioning in 2017 of a compressor enabling incidental evaporations to be reincorporated into the GRTgaz network. Elengy wishes to be able to define the volume of dedicated storage each year when drawing up the annual schedule.

The feedback submitted by the operators at the LNG Consultation shows that clients use this service and are satisfied with it.

The CRE deems that this service contributes to the downstream flexibility offered by the terminals and that it is accessible in a non-discriminatory way to the terminal's clients. It plans to extend the service under ATTM5.

**Question 13** Are you in favour of extending the dedicated stock service at the Montoir terminal, with a dedicated stock level increased to 625 GWh?

- Fos Cavaou terminal

The CRE's deliberations of 19 May 2016<sup>15</sup> enabled Fosmax LNG to conduct an experiment for a dedicated stock service at the Fos Cavaou terminal. The principle of this service is similar to the service proposed at Montoir. The volume of stock allocated to this experiment is approximately 100 GWh.

In these deliberations, the CRE asked Fosmax LNG to submit an assessment regarding the implementation of this service to the LNG Consultation before 31 October 2016. The CRE will examine the extension of this service beyond 1 April 2017 with regard to the assessment at the LNG Consultation as well as the responses to this public consultation.

<sup>13</sup> CRE deliberation of 15 July 2015 concerning the decision relating to the experimental marketing of a transhipment service at Fosmax LNG's Fos Cavaou LNG terminal

<sup>14</sup> The CRE's deliberations of 13 November 2013 concerning the decision relating to the set up of an experiment concerning the improvement of send-out flexibility at the Montoir-de-Bretagne LNG terminal

<sup>15</sup> The CRE's deliberations of 19 May 2016 concerning the decision relating to Fosmax LNG conducting an experiment for the dedicated stock service at the Fos Cavaou terminal.



- Stored quantity charge

As part of the dedicated stock services, the quantity of stock available is allocated to terminal clients in proportion to their subscriptions. The share of the dedicated stock corresponding to unsubscribed capacities therefore remains free. The operators wish to be able to market it each month for the following month, when drawing up the monthly schedules. They are therefore proposing to introduce a stored quantity charge (*terme de quantité stockée* or TQS) which they wish to price at an amount of €1/MWh. Elengy considers it useful to be able to offer a short-term storage service to third parties who expressed a need for this rather than distributing this capacity proportionately between the existing entities involved.

The current experiments at the Fos Cavaou terminal enables all the dedicated stock to be distributed, including the share of stock corresponding to unsubscribed capacities, between the terminal's clients, proportionate to their subscriptions, without any cost.

The CRE considered that those involved may be interested by the fact of having access to more dedicated stock than the share automatically allocated in proportion to subscriptions. This is particularly the case for those who are transporting few cargoes for which the share allocated automatically is very low and would only have little value. The CRE envisages two solutions for this:

- continuing to operate this service as it was in the experiment: all of the dedicated stock would be allocated to shippers according to their subscriptions. Those who hold dedicated stock would be able to transfer a part of it to a third-party shipper;
- the solution proposed by the operators, consisting of introducing a TQS allowing the LNG terminal operators to directly market the share of dedicated stock corresponding to unsubscribed capacities. Only the subscribers at the terminal would have access to this. The level of the TQS would be determined by the CRE and the income associated with this charge would be incorporated in the income and expenditure clawback account through the "additional income connected to new subscriptions" item. Those who hold dedicated stock would also retain the ability to transfer a part of it to a third-party shipper;

At this stage, the CRE is in favour of the operators' proposal, which would allow a client to subscribe voluntarily to the dedicated storage, on top of the storage share allocated to it automatically according to its subscriptions. This would particularly enable those transporting a low number of cargoes to have a dedicated stock level sufficient for their potential needs.

**Question 14** Are you in favour of extending the dedicated stock service at the Fos Cavaou terminal?

**Question 15** Are you in favour of introducing a stored quantity charge (*terme de quantité stockée* or TQS) enabling operators to market the share of dedicated stock corresponding to the terminals' unsubscribed capacities?

### 3.1.3.4 "Pooling" Service

The CRE's deliberations of 17 December 2015<sup>16</sup> enabled Elengy and Fosmax LNG to conduct an experiment for a pooling service for intra-monthly capacities. The pooling service allows any shipper who has subscriptions at least one of the three regulated terminals and who is not planning to use these subscriptions in full in month M, to use a part of these capacities at one of the other regulated terminals, by accessing, based on a specific tariff, the capacities still available after the 20th day of month M-1 at this second terminal.

In these deliberations, the CRE asked the operators to submit an assessment regarding the implementation of this service to the LNG Consultation before 31 October 2016. The CRE will examine the question of extending this service beyond 1 April 2017 with regard to the assessment of the service made by the operators at the LNG Consultation as well as the responses to this public consultation.

**Question 16** Are you in favour of extending the pooling service for the terminals' intra-monthly capacities?

<sup>16</sup> The CRE's deliberations of 17 December 2015 concerning the decision relating to the experiment, conducted by the regulated LPG terminal operators, of the so-called "pooling" service for intra-monthly capacities

### 3.2 Tariff structure

#### 3.2.1 Assessment of the tariff structure

The tariff charges that apply during the ATTM4 period are as follows:

<b>TNA</b>	charge based on a number of berthing operations, applied to each cargo loaded or unloaded at the LNG terminal, expressed in € per berthing operation;
<b>TQD</b>	charge based on a quantity unloaded, applied to quantities of LNG unloaded, expressed in €/MWh;
<b>TUCR</b>	charge based on the use of regasification capacities, applied to the average interval between the arrival of two vessels (time limited to one month), expressed in €/MWh;
<b>TR</b>	regularity charge, applied to the difference, as an absolute value, between the quantities of LNG unloaded in winter and the quantities of LNG unloaded in summer, expressed in €/MWh;
<b>TN</b>	charge for gas in kind, intended to cover the LNG terminal's gas consumption;
<b>TFR</b>	fixed reloading charge, applied to each cargo loaded at the LNG terminal, expressed in € per loading operation;
<b>TQR</b>	charge based on the quantity reloaded, applied to quantities of LNG loaded, expressed in €/MWh.

Unloading income for all of the terminals over the 2012-2015 period breaks down as follows:

TNA	5.4%
TQD	89.5%
TUCR	3.7%
TR	1.4%

#### 3.2.2 Incentive charge to encourage regularity of unloading operations (TR)

##### 3.2.2.1 The operators' proposals

The operators as well as the members of the LNG Consultation consider that the regularity charge (TR) is no longer suitable to the current context. Indeed, it was introduced against a context of high use of regasification capacity in order to avoid congestion in winter.

Furthermore, they deem that, as it was calculated retrospectively, this tariff charge generates financial uncertainties for terminal users.

##### 3.2.2.2 The CRE's preliminary analysis

The regularity charge is an incentive for terminal clients to unload more cargoes in summer than in winter.

The CRE considers that the risk of congestion at the terminals is low and will remain so in the future because of surplus regasification capacity in Europe. Furthermore, the CRE considers that in order to have a real incentive effect, this charge should be much higher. In effect, many other elements are taken into consideration when determining vessel arrival dates. The CRE finally deems that withdrawing the TR would contribute to simplifying the terminals' offering.

As a result, the CRE is at this stage in favour of the operators' proposal to withdraw the regularity charge.

**Question 17** Are you in favour of withdrawing the regularity charge?

#### 3.2.3 Change in the charge for using regasification capacities

The charge for using regasification capacities (TUCR) is a charge which aims to reflect the fact that the more

regular a user is, the less storage capacity is used by each of its cargoes. Therefore, for the same quantity unloaded, the greater the number of cargoes transported, the lower the cost that is connected to this charge is.

### 3.2.3.1 The operators' proposal

The operators consider that operational storage is a fundamental link in the LPG terminals' offering. The operators wish to retain such a charge, by renaming it:

- this charge will become the "Storage Optimisation Charge" or TOS (*Terme d'optimisation stockage*), to reflect the cost of operational storage of LNG before it is sent out onto the network;
- the associated price, the "storage optimisation price" or POS (*prix d'optimisation stockage*) would be calculated according to the same formula as the price backed by the TUCR:  $POS = \text{Quantity unloaded over the year} \times TOS \times \min(1; 12/T)$ , with T being the number of cargoes subscribed over the annual grid. Therefore, for the same quantity unloaded, a client transporting more than one cargo per month would have a lower POS than the other terminal clients. According to the operators, this would enable the fact to be reflected that the LNG storage period is lower as the number of cargoes transported increases;
- the operators are proposing to maintain the value of the current TUCR as the value for the TOS (€0.12/MWh).

### 3.2.3.2 The CRE's preliminary analysis

The existence of this tariff charge has the effect of adding a little to the access price to the terminal for clients transporting less than 12 LNG cargoes per year.

The CRE considers that the TOS, calculated based on subscriptions, does not reflect the actual cost of storage, particularly for a shipper transporting less vessels than planned. For example, a shipper who has subscribed to 24 cargoes and only transporting 12 will have a TOS that is half that for another shipper who has subscribed to 12 cargoes with no cancellations.

So, at this stage, the CRE is in favour of withdrawing the TUCR rather than changing its name.

**Question 18** Are you in favour, as planned by the CRE, to withdraw the charge for using regasification capacities?

## 3.2.4 Tariff level applicable to vessel reloading operations

A shipper who wishes to carry out a reloading operation must pay the charge for number of berthing operations (*terme de nombre d'accostages* or TNA) as well as the fixed reloading charge (*terme fixe de rechargement* or TFR). In addition to these fixed charges, the shipper pays a variable charge in proportion to the quantity reloaded, the quantity reloaded charge (*terme de quantité rechargée* or TQR).

### 3.2.4.1 The operators' proposals

The fixed reloading charges (TFR) currently represent more than half the price of a reloading operation, which no longer corresponds to the associated costs. In effect, based on feedback from operations carried out since 2013, the operators consider that such levels of fixed costs are no longer suitable.

The operators propose to lower the TFRs to €100,000 per reloading operation as opposed to the current charges of €180,000 for Fos Tonkin, €240,000 for Montoir and €300,000 for Fos Cavaou. This reduction would be compensated by an increase in the quantities reloaded charges (TQR) which would change from €0.160/MWh to €0.35/MWh for the ATTM5 period.

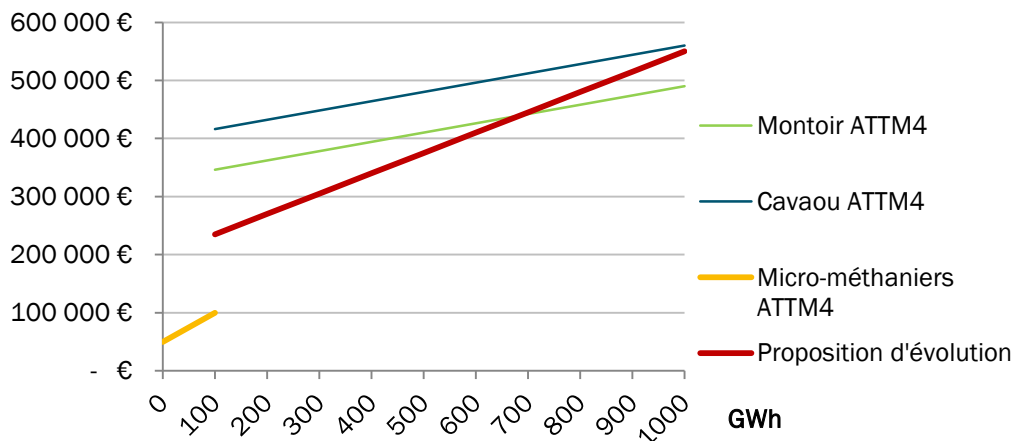
### 3.2.4.2 The CRE's preliminary analysis

The CRE considers that the operators' proposal would enable the costs associated with a loading operation to be better reflected, while keeping a total reloading price equivalent to the current price for cargoes of around 1 TWh, the volume usually seen for reloading operations in regulated terminals. Furthermore, such a change would get closer to the prices of a micro-LNG reloading operation (up to 20,000 m<sup>3</sup>, or ~130 GWh) and a standard reloading operation for a volume slightly greater than the 20,000 m<sup>3</sup> threshold.

Currently, clients who wish to reload a low-volume cargo pay tariffs which can reach €4/MWh reloaded, which is very discouraging. The change proposed by the operators would allow the price of a loading operation to be limited to ~€2/MWh.

At this stage, the CRE is in favour of the change proposed by the operators.

Tariff for a reloading operation depending on the volume reloaded



**Question 19** Are you in favour of rebalancing the fixed charges and the variable charges for vessel reloading operations?

### 3.2.5 Harmonising the number of berthing operations charges

The number of berthing operations charge (TNA), applied to each cargo loaded or unloaded at the LNG terminals, is fixed in the tariffs in force at €90,000 at the Montoir terminal, €100,000 at the Fos Cavaou terminal and €75,000 at the Fos Tonkin terminal.

Elengy proposes to align the Montoir TNA with that of Cavaou, at €100,000, in order to promote the arrival of large-capacity vessels.

The CRE is in favour of such a change. Furthermore, the CRE shares Elengy's analysis, according to which aligning the Fos Tonkin TNA at the same level would not have an incentive effect, because, at the Fos Tonkin terminal, the size of cargoes is limited by the dimensions of the harbour basin giving access to the terminal.

**Question 20** Are you in favour of harmonising the number of berthing operations charges between the Montoir and Fos Cavaou terminals?

### 3.2.6 Rules for the off-take of gas in kind

Terminal operators need gas so that each terminal can operate smoothly. The off-take of gas in kind charge, expressed as a percentage of volume discharge, enables this need (which is specific to each terminal) to be covered.

During the ATTM4 period, this charge is fixed at 0.2% for the Fos Tonkin and Fos Cavaou terminals and at 0.5% for the Montoir terminal.

Elengy has implemented an evaporation compression project for direct send-out onto the transport network at Montoir, which enables the consumption of gas at the terminal to be reduced. Nevertheless, Elengy deems it necessary to keep the Montoir charge at a higher level than the Fos Tonkin and Fos Cavaou charges, because the Montoir terminal uses submerged combustion regasification units as well as water heaters, which leads to high consumption than the other terminals.

Over the period from December 2015 to June 2016, self-consumption at the Montoir terminal corresponded to 0.35% of the quantity unloaded. In 2017, compressors allowing send-outs to be reduced to the bare minimum during LNG shortage periods will come into service and will have the effect of reducing the terminal's self-consumption level.



As a result, Elengy estimates that a reduction in the gas in kind charge currently at 0.5% to 0.3% for the ATTM5 period would allow these needs to be covered.

The CRE is, at this stage, in favour of Elengy's proposal.

**Question 21** Are you in favour of a reduction from 0.5% to 0.3% of the off-take of gas in kind charge at the Montoir-de-Bretagne terminal?

### **3.3 Drawing up reloading and transshipment schedules**

#### **3.3.1 Annual schedule**

Currently, during the fourth quarter of each year, each user of the regulated LNG terminals sends an annual schedule request to Elengy and Fosmax LNG, in order to plan its unloading operations for the next calendar year.

Vessel unloading and transshipment operations are not currently accessible for reservation before the 20th day of month M-1 for month M. As part of the LNG Consultation, some of those involved have expressed the desire to have visibility over all the services proposed by the regulated terminals.

In its first public consultation, the CRE considered that responding to user expectations, while giving them more visibility over all operations, would increase the appeal of the regulated terminals. With the aim of securing supply, however, the CRE deemed that, if there is a supply crisis, each terminal should be able to achieve its maximum capacity of injection into the French transmission network. It therefore asked the operators to reserve, in each terminal, an adequate number of unloading slots to be able to achieve this maximum if needed. The difference between the total number of slots that can be scheduled and the number of slots reserved for unloading could thus be made available for reloading and transshipment operations when drawing up the annual schedule.

##### **3.3.1.1 Vessel reloading operations**

The operators propose that any shipper that has subscribed to unloading capacities can reserve a reloading operation when the annual schedule is drawn up, with the following limitations:

- unloading operations take priority in the event of requests for the same date;
- a reloading operation is scheduled so that its potential cancellation cannot prevent an unloading operation from taking place because of surplus LNG in the tanks;
- a shipper who wishes to reload a cargo is responsible for ensuring availability of the volume of LNG needed for the operation. The reloadable volume will be determined by the operator according to the unloading operations planned by the shipper and the terminal's operational constraints;
- the operators shall assure at all times that the maximum unloading capacity of the terminal can be attained if needed.

The CRE considers that the operators' proposal increases the appeal of the terminals without hindering their smooth operation and security of supply. It is therefore in favour of this at this stage.

##### **3.3.1.2 Transshipment operations**

The CRE's deliberations on 23 May 2013 concerning the decision relating to the marketing of a transshipment service at the Montoir terminal defined the rules for scheduling transshipment operations at the Montoir terminal. These are scheduled when the annual schedule is drawn up. The transshipment slots are then ring-fenced, as are the unloading operations slots.

The CRE anticipates extending the transshipment service to the FOS Cavaou terminal, authorised to carry out an experiment by the deliberations on 15 July 2015<sup>17</sup>. As part of this experiment, the transshipment operations can only be reserved up to the 20th day of month M-1 for month M. In the event that the service is extended, Fosmax LNG would like transshipment operations to be able to be reserved as soon as the annual schedule is drawn up.

At this stage, and consistent with the rules that apply to the Montoir terminal, the CRE deems that Fosmax LNG's proposal enhances the appeal of the Fos Cavaou terminal without hindering unloading operations. It is therefore in favour of this.

<sup>17</sup> CRE deliberation of 15 July 2015 concerning the decision relating to the experimental marketing of a transshipment service at Fosmax LNG's Fos Cavaou LNG terminal

**Question 22** Are you in favour of the operators' proposal to allow the reservation of vessel reloading operations once the annual schedule is drawn up?

**Question 23** Are you in favour of Fosmax LNG's proposal to allow the reservation of transshipment operations intra-annually, after the annual schedule has been drawn up?

### 3.3.2 Intra-annual rescheduling operations

The annual schedule allocates timeslots to the operations reserved by shippers. It is impossible for a client to move a slot during the same month, with the agreement of the operator. Conversely, it is not possible to postpone a slot reserved from one month to another: any operation cancelled for a month M is lost, but nevertheless paid for via the *Ship or Pay* mechanism.

The operators propose to provide flexibility to all shippers in managing their subscriptions by giving them an option to reschedule over several months, while retaining the capacities available at the terminals for new subscriptions.

To do this, the operators are proposing to implement a Subscription Account (*Compte de Souscription* or CS). This account could only be credited with the fixed and variable charges connected to unloading operations (TNA and TQD).

The CS would be divided into two different sections, CS1 and CS2:

- CS1 would be credited when the annual schedule is drawn up with unloading operations that have been subscribed to but not scheduled. It could be used during the year to unloading operations over the other months of the year, as if this were primary capacity;
- CS2 would be credited intra-annually, when an unloading operation is cancelled. The operators consider that an unloading operation must be unscheduled before a deadline, which they deem necessary to be between the 20th day of month M-2 and the 20th day of month M-1, so that the associated tariff charges can be credited to CS2. The CS2 can then be used only to schedule operations when the monthly schedule is drawn up or intra-monthly.

For example:

- A client who has reserved 12 TWh spread over 12 vessels for one year and only programming 9 TWh spread over 10 vessels when the annual schedule is drawn up would have a CS1 of 3 TWh and 2 cargoes: CS1 = [NDC = 2; QDC = 3 TWh].
- A client who has programmed a single cargo of 1 TWh over a given month and who decides to cancel it in advance would have the following CS2: CS2 = [NDC = 1; QDC = 1 TWh]

Where:

NDC = number of unloading operations

QDC = quantity unloaded

CS1, just like CS2, could never be negative. The NDC and QDC charges from the subscription accounts could be used independently.

Each shipper's CS1 and CS2 would be reset to zero at the end of each shipper Billing Period. The CS1 and CS2 charges would be transferable by the shippers on the secondary market.

The CRE considered that this proposal would increase the value of subscriptions at the terminals. However, the CS1 may enable those involved to keep non-scheduled reservations in order to have a re-scheduling option in the event of a change in the economic situation. It is therefore, at this stage, not in favour of the operator's proposal regarding the possibility of using the CS1 for scheduling beyond the monthly grid.

With regard to the deadline enabling a shipper to un-schedule and operation while keeping it in its CS2, the operators wish to hear the opinions of the players in the market on the date to be determined. The CRE considers, at this stage, that the 20th day of month M-2 would favour the release of slots before the 20th of month M 1. This is the option which it prefers at this stage.

**Question 24** Are you in favour of the operators' proposal to allow the scheduling of unloading operations

on the intra-annual grid, through the CS1?

**Question 25** Are you in favour of the operators' proposal to allow the re-scheduling of unloading operations that have been cancelled with sufficient prior notice, through the CS2?

**Question 26** Do you share the CRE's analysis regarding the cargo cancellation deadline so that this cancellation is paid into the CS2 of the shipper in question?

### **3.4 Marketing capacities reserved in the short term at Fos Cavaou**

The Fos Cavaou terminal has a total regasification capacity of 97 TWh per year. The CRE's deliberations of 15 December 2003<sup>18</sup> provide that *"as long as the competitive offering is underdeveloped, at least 10% of the capacity of the new terminal can be reserved for all suppliers, for short-term contracts, under non-discriminatory conditions."*

Fosmax LNG currently wishes to be able to market all the terminal's capacities in the long term and proposes to implement a co-ordinated sales operation in 2017, then to offer the remaining capacities according to the first-come first-served rule.

The CRE deems that currently a player who wishes to transport LNG in France or in Europe has this possibility. Indeed, numerous terminals have been located on various European coastlines. A player who wishes to transport gas in France is able to subscribe to Fos Cavaou or Montoir where capacity remains available. It can also transport LNG to Spain, Belgium, or the Netherlands then subscribe for transport capacity with the GRTs in question. In addition, when the Dunkirk terminal enters into service, these possibilities will increase further.

So that Fosmax LNG can respond favourably to a potential long-term subscription requests, the CRE is planning at this stage to remove this constraint.

**Question 27** Are you in favour, as is the CRE, in enabling Fosmax LNG to market the 10% of primary capacity currently reserved for the short term?

**Question 28** Do you have any other comments concerning the drawing up of the ATTM5 tariffs?

<sup>18</sup> Deliberation on the protocol between Gaz de France and TOTAL, relating to the outcome of their joint participation in CSM and GSO

#### 4. SUMMARY OF QUESTIONS

- Question 1** Are you in favour of the regulatory framework proposed by the CRE for the ATTM5 period?
- Question 2** Are you in favour of the creation of an item fully covered by the income and expenditure clawback account, allowing additional revenue connected to the subscription assumptions made in the tariff deliberations to be covered?
- Question 3** Are you in favour of covering revenue connected to additional subscriptions for the vessel reloading service by up to 75%, instead of 50% as it is currently?
- Question 4** Are you in favour of creating an item enabling recovery of the differences between projected and actual amounts concerning the pooled costs associated to non-regulated services, such as transshipment or tanker-loading operations, that is fully covered in the income and expenditure clawback account?
- Question 5** Do you have any comments on the ATTM4 assessment and the tariff requests from the operators for ATTM5?
- Question 6** What do you think about the calculation method envisaged by the CRE to set the rate of return on LNG terminal assets?
- Question 7** What you think about the rate of return envisaged by the CRE to remunerate the regulated asset base of the LNG terminals?
- Question 8** Do you agree with the adjustments envisaged by the CRE on operating costs as requested by the operators?
- Question 9** Are you in favour of the creation of a basic service as per the conditions proposed by the operators?
- Question 10** Are you in favour of setting up a band option? Do the conditions proposed by the operators seem acceptable to you or would you, like the CRE, wish them to retain the flexibility associated with the current band service? What, in your opinion, should be the tariff for this option?
- Question 11** Are you in favour of retaining the "spot" service under the conditions proposed by the operators, and with the pricing proposed by the operators?
- Question 12** Are you in favour of the tariff treatment for tanker loading envisaged by the CRE?
- Question 13** Are you in favour of extending the dedicated stock service at the Montoir terminal, with a dedicated stock level increased to 625 GWh?
- Question 14** Are you in favour of extending the dedicated stock service at the Fos Cavaou terminal?
- Question 15** Are you in favour of introducing a stored quantity charge (*terme de quantité stockée* or TQS) enabling operators to market the share of dedicated stock corresponding to the terminals' unsubscribed capacities?
- Question 16** Are you in favour of extending the pooling service for the terminals' intra-monthly capacities?
- Question 17** Are you in favour of withdrawing the regularity charge?
- Question 18** Are you in favour, as planned by the CRE, to withdraw the charge for using regasification capacities?
- Question 19** Are you in favour of rebalancing the fixed charges and the variable charges for vessel reloading operations?



**Question 20** Are you in favour of harmonising the number of berthing operations charges between the Montoir and Fos Cavaou terminals?

**Question 21** Are you in favour of a reduction from 0.5% to 0.3% of the off-take of gas in kind charge at the Montoir-de-Bretagne terminal?

**Question 22** Are you in favour of the operators' proposal to allow the reservation of vessel reloading operations once the annual schedule is drawn up?

**Question 23** Are you in favour of Fosmax LNG's proposal to allow the reservation of transshipment operations intra-annually, after the annual schedule has been drawn up?

**Question 24** Are you in favour of the operators' proposal to allow the scheduling of unloading operations on the intra-annual grid, through the CS1?

**Question 25** Are you in favour of the operators' proposal to allow the re-scheduling of unloading operations that have been cancelled with sufficient prior notice, through the CS2?

**Question 26** Do you share the CRE's analysis regarding the cargo cancellation deadline so that this cancellation is paid into the CS2 of the shipper in question?

**Question 27** Are you in favour, as is the CRE, in enabling Fosmax LNG to market the 10% of primary capacity currently reserved for the short term?

**Question 28** Do you have any other comments concerning the drawing up of the ATTM5 tariffs?