

Deliberation of the French Energy Regulatory Commission (*Commission de Régulation de l'Énergie – CRE*) on 2nd July 2009 providing guidance on the organisation of access to natural gas transmission networks and on capacity traded within the framework of gas interconnections with Spain.

Present: Mr. Philippe de LADOUCETTE, President, Mr. Maurice MÉDA, Vice-President, Mr. Jean-Paul AGHETTI, Mr. Eric DYEUVRE, Mr. Hugues HOURDIN and Mr. Emmanuel RODRIGUEZ, Commissioners.

1. Background

1.1. Organisation of access to natural gas transmission networks

Since 1st January 2009, access to French natural gas transmission networks has been organised in three balancing zones managed by two transmission system operators (TSO), TIGF in the South-West and GRTgaz for the remainder of French territory.

The conditions for setting up this new organisation, embodied in the ministerial order of 6th October 2008 approving CRE's tariff proposal of 10th July 2008 (ATRT4), have been prepared since the beginning of 2007 by:

- CRE communication of 21st March 2007 requesting GRTgaz and TIGF to set up a joint working group with the aim of optimising access to gas transportation systems in the South France.
- CRE decision of 25th October 2007 giving the working hypotheses for the transmission tariff applicable from 1st January 2009 and setting the rules for marketing the link and interface capacities corresponding to these hypotheses;
- the marketing of these capacities by GRTgaz and TIGF with effect from January 2008.

Despite the unquestionable improvements brought by this new structure, access to the South of France remains difficult for shippers with no entry capacity from the Fos LNG terminals.

Consequently, from November 2008, work was undertaken with the TSOs and market players within the framework of Concertation Gaz¹, (Gas Consultation) with the aim of improving the conditions of access to the South of France by April 2011.

In view of the time taken to implement these improvements, CRE wishes to present its guidelines for the comprehensive approach to access to gas transmission networks by 2011.

¹ Concertation Gaz: consultative body on rules for transportation by gas transmission networks which was created following the deliberation of CRE dated 18th September 2008.

1.2. The development of gas interconnections with Spain.

The development of gas interconnections with Spain is the priority of the work of ERGEG's² Southern Regional Initiative. This project is supported by the French and Spanish authorities, as noted in the common statement on energy following the Franco-Spanish summit of 28th April 2009, *"In accordance with the Saragossa Declaration concerning the two gas interconnections currently existing between France and Spain, the two countries have together examined the possibility of undertaking new investments to reinforce these capacities (West corridor) by 2013. The French and Spanish authorities have also confirmed their interest in the study of a new interconnection on the East (Midcat project). In liaison with the regulators, the French and Spanish operators are jointly preparing two open season procedures to test market expectations, which will be launched in the summer of 2009. The first of these concerns the development of the West Corridor and could result in investment decisions between now and the end of the year. The second concerns the development of the East Corridor."*

Finally, the reinforcement of gas interconnections between Africa, Spain and France has been selected under the European economic recovery plan and as such should benefit from a community subsidy of up to €245 M, including €200 M for the French section.

The investments necessary to develop interconnections with Spain will be determined, where the French section is concerned, on the basis of shippers' long-term commitments for capacity reservations (over 10 years and more), within the framework of market tenders ("open seasons"), which will be launched in July 2009.

For these open seasons to function efficiently shippers must be given sufficient information about marketed capacities as well as about projected prices.

It follows that for these open seasons to be successful, immediate clarification is required of the structure of access to French gas transmission networks by 2013 that CRE intends to propose to the Economics and Energy Ministers.

1.3. Public consultation of CRE

The structure that CRE will propose to ministers for 2013 must be made public in July 2009, both to meet the expectations of market players for a change in the organisation of access to natural gas transmissions networks in April 2011, and to ensure that the open seasons for the development of interconnections with Spain are organised in the best conditions.

With this aim CRE organised a consultation in May 2009 which took particular account of the work of Concertation Gaz since November 2008 and the results of the public hearings led jointly by CRE and the CNE³ at the end of 2008.

In its technical consultation memorandum, CRE presented three main options:

- the merger of the North and South zones in the GRTgaz network as described in the report of the consulting group;
- the adjustment of tariff rules in the South of France, and particularly the disappearance of the tariff charge at the interface between the TIGF and GRTgaz South zones;
- the status quo.

42 responses were received: The summary of the public hearings and the non confidential individual responses were published on CRE web site on 23rd June 2009.

To prepare its deliberation CRE also heard evidence from TSOs, and organised a round table on 18th June 2009 which brought together shippers and representatives of industrial consumers who had responded to the public hearings.

² ERGEG: European Regulators Group for Electricity and Gas

³ CNE: Spanish National Energy Commission

2. CRE guidance concerning the tariff for use of the natural gas transmission networks from 1st April 2011.

As previously stated, it is necessary to make known today the global approach towards access to the transmission network envisaged by CRE for 2011 and 2013, both in order to prepare its implementation and to organise the open seasons in the best conditions.

In this section CRE sets out its policies for the overall approach. As provided by law, during the second six months of 2010 CRE will propose new gas transmission tariffs to the ministers of economy and energy to apply from 1st April 2011, based on this structure.

2.1. Organisation of natural gas transmission

2.1.1 The public hearings show that market players want the structure of transport in France to be modified from April 2011.

a) Three key lessons may be learnt from the analysis of the responses received during the public hearings:

- feedback from the market is globally positive about the new structure implemented since 1st January 2009. Firstly the merger of the three balancing zones in the north has improved market liquidity in this zone and led to an increase in competition in favour of consumers. Secondly the conditions in which this new structure was prepared and implemented are viewed favourably;
- a large majority of market players express willingness to achieve the setting up of a single market zone for gas transmission in France in due course. However there is no consensus regarding the practical aspects and the timetable for setting this up, even if market players agree about the need to continue joint consultations aimed at attaining this goal;
- the opinion among players that the current tariff structure must continue to develop is almost unanimous. Under the circumstances the status quo is not an option.

b) Over and above this general information CRE notes that a majority of market players is favourable to the merger of the north and South GRTgaz zones in 2011. About half the shippers and all industrial consumers consider that the situation described in the consultation group's report is realistic and that the obstacles identified could be overcome by improving technical analyses and modifying current regulations.

The other half of the shippers, and all network and infrastructure operators, are either opposed to this solution or reticent about the soundness and viability of the proposed mechanisms and the feasibility of an application date of April 2011.

c) With regard to the modification of tariff rules in the South, about half the shippers and several infrastructure operators consider that this solution should be given priority, because it is the most realistic in terms of feasibility and time-table. In their opinion it also represents a step forward which will improve conditions of transportation over the French transmission system and allow greater regional and European integration of the gas markets.

Among the market players who are in favour of a merger of the GRTgaz North and South zones:

- the majority considers that the solution of optimisation in the South is an acceptable alternative in the event that the fusion of the GRTgaz North and South zones does not take place;
- some players are opposed to the solution of optimisation in the South, since they believe that it would delay progress towards a unique zone over the entire GRTgaz network;
- others, industrial consumers particularly, would like to see it implemented at the same time as the merger of the GRTgaz North and South zones.

Moreover, a large number of comments and proposals were made regarding the practical aspects of implementing this solution.

2.1.2 The conditions for merging the GRTgaz North and South zones in April 2011 do not exist.

CRE understands the request of the majority of market players in favour of the merger of the North and South GRTgaz zones as soon as possible. It shares the point of view that a unique balancing zone encompassing most of France would create the conditions for a more rapid development of the wholesale market and would facilitate access to the South of the territory for new suppliers under more favourable economic conditions.

The current structure of GRTgaz network in two balancing zones allows the management of the congestion between the North and the South of the territory. Shippers having clients in the South are forced to bring gas into the zone, more particularly at the Fos LNG terminal. This congestion will not be solved before 2015, giving the investments volume to be realised, which are estimated to amount around 2 billion euros by GRTgaz.

Thus, the report of the working group « Concertation Gaz » concluded that, in order to allow a merger of the Northern and Southern zones of GRTgaz network, the management of the congestion would require flow commitments from shippers holding long term capacities on Fos LNG terminals.

CRE notes that GDF Suez and Total, whose responsibility would be to take the commitments for ensuring these flows, have expressed their opposition to this scenario very clearly.

In addition, the concerned TSO GRTgaz is not in favour of this solution and indicates that it would not be able to implement it on April 2011.

Moreover, this solution presents other drawbacks that could ultimately handicap the development of the French gas market.

The merger of the GRTgaz North and South zones would therefore lead to an organisation of access to the transmissions system which would be far removed from the physical reality of the networks. The two mechanisms proposed to compensate for this distortion between physical reality and the network access scheme raise numerous questions.

- flow commitments in LNG terminals which were unconnected to shippers' needs would run counter to the development of the world liquefied natural gas market (LNG) in which LNG terminals have an increasingly important arbitrage function. Such a mechanism could penalise the attractiveness of the French market in a context of increasing competition between the European LNG terminals.
- the geographical balancing mechanism, inspired by the adjustment mechanism that exists on the French electricity market, seems scarcely suitable for the French gas market. To ensure the balance of flows in any circumstances, constraints would have to be imposed on the entire gas community that might well make the operation of the market even more complex than the present situation. The network and infrastructure operators, as well as some shippers, express strong reservations about this arrangement.

Finally, these two mechanisms could generate high costs for GRTgaz (which would have to be passed on to the final consumer) to compensate the shippers concerned by the flux commitment or to remunerate the balancing offers.

In these conditions CRE considers that the merger of the North and South GRTgaz zones in 2011 would be premature. It believes that it is preferable to choose a more progressive route, based on sounder technical and operational techniques, to achieve a single market zone in France.

2.1.3 Options selected by CRE for the future organisation of gas transmission in France

A large majority of participants, including those who are favourable to the merger between the GRTgaz North and South zones, prefer the modification of tariff regulations in the South of France to the status quo.

CRE believes that the technical conditions are met to apply this scheme in April 2011. In particular, enough capacities are available at the interface between the GRTgaz South zone and the TIGF zone.

To take this into account, it intends to propose new tariffs for the use of natural gas transmission networks during the second half of 2010, applicable from 1st April 2011. The following developments are envisaged:

- to maintain three balancing zones: the GRTgaz North and South zones and the TIGF zone;
- reducing the capacity charge to zero between the GRTgaz South zone and the TIGF zone, which would lead to this capacity not being included in the products marketed in the open seasons for the development of Franco-Spanish interconnections;
- simplification of the operational management of transportation and balancing in the South through nominations without capacity reservation constraint at the interface between the GRTgaz South zone and the TIGF zone.

This scheme would considerably simplify the organisation of open seasons by avoiding the long term marketing of a capacity product that does not correspond to a major physical congestion.

It would install a market organisation which would reflect the physical reality of the networks, which would be a guarantee of stability for all participants.

It raises the possibility of the later creation of a competitive liquid market in the South of France, whereas the status quo would maintain two separate marketplaces with limited growth prospects.

It would be in line with the perspective of the subsequent creation of a unique marketplace in France if the conditions are met (chiefly decongestion investments between the North and South of France).

The implementation of this scheme would require the definition of operating rules at the interface between the TIGF and GRTgaz South zones. This work should be started without delay, within the framework of Concertation Gaz.

CRE takes note of the reticence expressed by some players in their response to the public consultation regarding this solution.

- a) TIGF and its shareholder consider that the open seasons must be started within the current tariff framework. The former wants any development to be preceded by a *"global survey of the French network undertaken by GRTgaz and TIGF, with the aim of identifying existing points of congestion."* The latter considers that *"the stability of the tariff structure, which provides the market with the pricing visibility it needs to commit itself, is a necessary condition for the launch of the open seasons"*, and asks for *"the maintenance of the current tariff structure to be solemnly and durably asserted"*.

The market visibility necessary for commitment in the open seasons related to the development of interconnections planned for July must be given before these operations to ensure their success. In this respect the TIGF proposal, to launch these open seasons under the current structure and define the organisation of transmission in France subsequently, does not provide this visibility.

Furthermore TIGF request to maintain the current tariff structure on a permanent basis would go against the majority of market players' wishes.

CRE also notes that the adopted scheme maintains the existence of three distinct balancing zones and will result in a simple readjustment between different tariff charges generating TSOs income. Consequently this scheme has no effect on:

- the independence of TIGF. it does not require any sharing of the TIGF and GRTgaz businesses;
- TIGF's short, medium or long term revenues. The principles of return on assets and the incentive for investment are not called into question.
- the level of investments to be made by TIGF.

Moreover, this scheme (described in 2.2) takes into account the geographic nearness between TIGF storage facilities and the Spanish frontier.

Consequently, the scheme adopted by CRE in its guidelines cannot have any impact on TIGF's financial situation, neither for gas transmission nor for storage.

- b) Several actors believe that the merger of the GRTgaz North and South zones is the only answer to the problem of access and competition in the South.

It is true that on its own the adopted scheme does not deal with the problem of access to the South of France for shippers who only have gas in the North zone.

CRE proposes that from September 2009 access to the South of France should be examined by a specific working group within the Concertation Gaz process, with the aim of undertaking a complete review of conditions of access to entry capacities in the South. This work will be led with all participants in three main directions which were expressed in the public consultation:

- to redefine the rules of allocation of North/South link capacities. Many players ask for the rules of allocation to take into account the procurement requirements for the portfolio of each shipper in the zone. Without anticipating the adopted option, the group Concertation Gaz has already started to analyse this evolution which will be applied on the next annual firm capacities allocation available from 1st april 2010. The creation of new firm capacities available for newcomers by mechanisms of the conditional capacity type should also be examined;
- the pursuit of discussions about the restoration of capacities at the Fos Cavaou LPG terminal;
- the improvement of existing operating rules, with the rapid examination of proposals derived from the public hearings (consideration of re-nominations on a prorata temporis basis for UIOLI, optimisation of the maintenance programme and improvement of information circulated about capacity reductions, firm UIOLI, etc).

Finally CRE welcomes the TIGF proposal that the two TSOs equip themselves with a common computer model to calculate the gas flows. It will allow the analysis of the different ways the French natural gas transmission network is working. The specifications for this model will be decided by the two TSOs and the results will contribute to the work of Concertation Gaz.

2.2. Estimation of tariff charges for 2013

It is also necessary to issue an estimation of the tariff of market products, that CRE envisages to propose subsequently to the ministers involved, to allow the open seasons for the development of interconnections with Spain to be correctly organised.

In view of the responses to the public hearings, CRE has modified the guidelines on tariff levels that it had set out in the consultation document.

The majority of players is in fact opposed to any increase in the tariff for the North-South link capacity, because this would accentuate the differential for access costs to the South between shippers entering from the North and those entering directly via the LNG terminals in the South zone.

CRE shares this point of view and is therefore considering the possibility of maintaining the tariff for the North/South link capacity at its present level in both directions.

Consequently, the following tariff structure would be adopted:

- TIGF's exit charge to Spain will be raised to about €400/MWh/day so as to maintain the current tariff level for shippers bringing gas to Spain from the GRTgaz North or South zones;
- a proximity charge will be established for joint subscriptions to capacity at the Franco-Spanish interconnection and to PITS storage facilities in the South-West, so as to take account of the nearness of the South-West storage facilities and the Spanish frontier which is the only interconnection point where physical flows are possible in the two directions;

Hence, the best estimates that CRE is able to give for the different tariff charges in 2013 are as follows (prices are in 2009 Euros and at the same levels of operating costs as those used to define the tariffs currently in force):

- the charges for the interface between the GRTgaz South zone and the TIGF zone must be brought to €0/MWh/day per year in both directions. Accordingly it will no longer be necessary to market the corresponding capacities;

- the charges for the GRTgaz North-South link should be maintained at their present level, i.e. €200/MWh/day per year in the North to South direction, and €150/MWh/day each year in the South to North direction;
- the tariff charge for entry to France from Spain should be between €100 and €150/MWh/day per year. tariff equalisation will be maintained with the other terrestrial entry points, Dunkirk, Taisnières and Obergailbach;
- the exit charge to Spain should be around €400/MWh/day per year, with the creation of a local charge if the South-West storage facilities are used.
- the tariff charges at the PITS (transport storage interface points) will be aligned or even totally equalised on a national scale.

3. CRE guidance concerning capacities marketed within the framework of the open seasons for the development of interconnections with Spain

The majority of market players are favourable to CRE proposals, as described in the consultation document:

- to limit long term marketing of capacities between the French balancing zones only to recently created capacities;
- for interconnection capacities between Spain and TIGF, to sell 80% of the marketable capacities in the open seasons (with priority given to subscriptions of 10 years and more) and 20% in the short term (1 year and less).

With regard to the link between GRTgaz South to GRTgaz North, they would like part of the capacity to continue to be reserved for subscriptions of between two and four years despite the low level of current subscriptions.

In the circumstances CRE has adopted the following approach:

1. Capacities marketed in the open seasons for development of interconnections with Spain, whose implementation is planned for 1st April 2013 for the Western branch and 1st April 2015 for the Eastern branch:
 - interconnection capacities between Spain and the TIGF zone (Larrau, Bariatou and Perthus);
 - link capacities between the GRTgaz North and GRTgaz South zones.
2. Capacities marketed at the interconnection points between Spain and the TIGF zone: 20% of marketable capacities reserved for subscriptions for one year or less.
3. Capacities marketed at the link between the North and South zones of the GRTgaz network, within the framework of the "West branch" open season:
 - in the North-to-South direction: none in the framework of the "western corridor" open season;
 - in the South-to-North direction:
 - 20% reserved for subscriptions for one year or less;
 - 20% reserved for subscriptions for between two and four years;
 - 60% marketed in the framework of the "western corridor" open season.
4. According to the data provided by TSOs to South Region Initiative working group, capacities marketed for the West Branch would be:

Capacities marketed in the Spain → North of France direction:

GWh/day	Type of capacity	Technical capacity	Marketable capacity	Marketed capacity
Spain → TIGF	annually	225	225	180
Spain → TIGF	summer	5	5	4
GRTgaz South → GRTgaz North	annually	230	230	138

Capacities marketed in the North of France → Spain direction:

GWh/day	Type of capacity	Technical capacity	Marketable capacity	Marketed capacity
GRTgaz North → GRTgaz South	annually	230	152	0
TIGF → Spain	annually	225	147	117
TIGF → Spain	summer	5	5	4

5. In line with article 2 of the law of 3rd January 2003, the detailed allocation rules for open seasons related to the development of interconnections with Spain will be communicated to CRE and then published by the TSOs prior to the launch of the open seasons as "information memorandums".

Paris, 2nd July 2009

For the Energy Regulation Commission
The President

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