

Deliberation of 16 July 2009 by the French Energy Regulatory Commission on the proposed tariff for the use of LNG terminals

The following were present at the meeting: Philippe DE LADOUCKETTE, President; Michel LAPAYRE, Vice-President; Maurice MEDA, Vice-President; Jean-Paul AGHETTI and Hugues HOURDIN, Commissioners.

Article 7 of the French Law 2003-8 of 3 January 2003 provides that “*the substantiated tariff proposals for use of natural gas transmission and distribution networks and liquefied natural gas facilities are conveyed to the Ministers of Economy and Energy by the Energy Regulation Commission, especially on request from the operators*”.

The second tariff for the use of liquefied natural gas terminals, proposed by the French Energy Regulatory Commission (*Commission de Régulation de l'Énergie - CRE*) on 26 October 2005, was intended to apply from 1 January 2006 until the terminal at Fos Cavaou was commissioned.

This tariff proposal from the CRE concerns facilities for receiving, storing and regasifying liquefied natural gas (LNG) at the terminals of Fos Cavaou, Fos Tonkin and Montoir.

The global gas market is changing, and the proportion of LNG (currently 7% of the world's natural-gas demand) in the global supply is likely to increase over time. The world liquefaction capacity is approximately 330 Bcm/year; by 2013, this will probably have risen by around 30%¹.


In addition, Europe will need to import a growing proportion of the gas it uses. LNG terminals will play an increasingly important role in securing supplies, and will help to develop competition, as they enable new players to access the French and European markets.

In this context, the objectives of the proposed tariff are:

- to encourage new shippers to use the French LNG terminals, by offering users greater flexibility and keeping the quantity charge for spot cargoes lower than that for regular cargoes;
- to encourage the development of new regasification capacity in France. The proposed tariff gives LNG terminal operators a clear view of the return on assets over the long term and introduces a special subsidy for investments that create new capacity.

In preparing its proposal, the CRE held hearings of the operators (Elengy (a subsidiary of GDF Suez) and the Fos Cavaou LNG Terminal Company (*Société du Terminal Méthanier de Fos Cavaou - STMFC*), a subsidiary of Elengy and Total) and of the market players. It also organized two public consultations, one from 17 July to 4 September 2007, and the other from 22 July to 12 September 2008.

¹ Source: IEA



The major changes introduced in this tariff proposal are the following:

1. a separate tariff for each LNG terminal. The growth paths of regulated French LNG terminals are increasingly divergent, and this proposal allows to define tariffs reflecting the particular situation and costs of each terminal.

It also gives all market players a better view of the tariff trajectory for each infrastructure;

2. a new basis for providing a return on assets and an investment incentive. New investments, both in existing regulated terminals (including extensions to the terminals at Montoir and Fos Cavaou, and maintenance to extend the life of the Fos Tonkin terminal beyond 2014) and in planned new LNG terminals, are likely to be decided over the next few years. These investments will help to improve the security of supply in France in an increasingly competitive energy environment. To foster such investments, CRE is proposing tariffs that are predictable over the long term, provided the newly created capacities are allocated transparently, without discrimination and following procedural rules previously approved by CRE;
3. the introduction of an expenses and revenues clawback account (*Compte de Régularisation des Charges et des Produits - CRCP*) as a mechanism applied to particular income and expenses accounts to correct for any variances between the projected forecasts used to define the tariffs and the actual values. It would be similar in principle to the CRCP mechanism applied to tariffs for the use of gas transmission and distribution networks;
4. a three-year tariff period, starting on:
 - 1 January 2010 for the Montoir and Fos Tonkin terminals;
 - the date Fos Cavaou terminal is commissioned.

This tariff proposal takes into account an increase up to 95% of the level of ship-or-pay to foster a higher use of capacity at LNG terminals. The resulting average unit price is:

- €0.90 /MWh for the Montoir terminal (an increase of 8.3% over the current price). The increase in operating costs is offset by heavy booking of terminal's capacity;
- €1.14 /MWh for the Fos Tonkin terminal (an increase of 36.3% over the current tariff). This is due mainly to increased operating costs and a fall in booked capacity after 2010;
- €1.65 /MWh for the Fos Cavaou terminal.

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EXPLANATORY STATEMENT

I. Regulatory framework

In the explanatory statement of the 26th October 2005 tariff proposal, it was stated that *“when Fos Cavaou terminal is commissioned (currently scheduled for the fourth quarter of 2007), this will change the quantities regasified at Fos Tonkin and Montoir terminals. Thus the proposed tariff is intended to apply from 1 January 2006 until the Fos Cavaou terminal comes into service”*.

Since the commissioning of Fos Cavaou terminal has been postponed several times, CRE has decided that the tariff timetable for terminals operated by Elengy should be separate from that for the STMFC terminal. This tariff proposal thus includes a separate tariff to apply from 1 January 2010 for each terminal operated by Elengy, and a tariff applicable to the Fos Cavaou terminal from its commissioning date;

These tariffs are intended to apply for three years.

1. Tariff individualisation for each LNG terminal

Both Montoir and Fos Tonkin terminals currently use the same tariff.

CRE proposes defining individual tariffs for each LNG terminal, in order to take into account the evolution of each infrastructure.

Fos Cavaou terminal is operated by a separate company (STMFC) and is a new infrastructure under construction. Its projected costs follow a very different trajectory from those of terminals operated by Elengy. It means that the users of this terminal should pay a tariff which best reflects its costs.

Similarly, terminals operated by Elengy have divergent growth trajectories for the next few years. This is due to:

- the current investment programme to maintain the performance of Montoir terminal;
- the project, currently under review by Elengy, to extend Montoir terminal;
- specific features of Fos Tonkin terminal, which can only accept vessels with a capacity below 75,000 m³. Elengy is also currently reviewing ways to extend the exploitation of this terminal beyond 2014.

In this context, setting separate tariffs for the two terminals will ensure that current and future users have tariff levels covering the costs specific to each terminal. It will also give all market players a clear view and inform decisions on the investment projects currently under consideration for the two terminals.

Be it reminded, that CRE consulted the market in July 2007 on the implementation of individual tariffs for the LNG terminals. Most contributors were in favour of such evolution, which they thought would ensure that the tariffs reflected the investments made and the operational costs borne by each terminal, and would prevent cross-subsidies between terminals.

For its second public consultation in July 2008, the CRE announced a projected unit price based on customized tariffs for the period 2009-2012:

- in the order of €1.2 /MWh for the Fos Tonkin terminal;
- in the order of €1.1 /MWh for the Montoir terminal;
- between €1.4 and €1.5 /MWh for the Fos Cavaou terminal.

In addition, the CRE proposes that if any of these three terminals increase its capacity by an extension, its tariff should apply identically to both existing capacity and to the new capacity resulting from the extension.

2. Elengy

The authorized revenues for Montoir and Fos Tonkin terminals are set for a period of three years from the time the new tariff comes into force on 1 January 2010. They are determined by:

- the capital-cost trajectory, calculated on the basis of Elengy's investment forecasts;
- the operating-cost trajectory, calculated for 2010, 2011 and 2012, based on the costs calculated by CRE described in § II.1 of this Explanatory Statement.

This gives Elengy an average overall authorized revenue of €154.9M per year for the period 2010-2012, based on current euro values, i.e. an 10.1% increase compared to the authorized revenue given by the current tariff (third-party access to LNG terminals (*Accès des Tiers aux Terminaux Méthaniers - ATTM2*)).

Given the forecasted bookings of capacity used in this calculation, the average unit prices for the period 2010-2012, expressed in current euro values, are €0.9 per MWh for Montoir terminal and €1.14 per MWh for Fos Tonkin terminal.

3. STMFC

The authorized revenue for Fos Cavaou terminal is set for a period of three years from the terminal's start-up. It is determined by:

- the capital-cost trajectory, calculated on the basis of STMFC's investment forecasts;
- the operating-cost trajectory, calculated for 2010, 2011 and 2012, based on the costs calculated by CRE described in § II.1 of this Explanatory Statement.

Revenue amounts to an average of €151.5M per year for the tariff period, based on current euro values, giving a unit price of €1.65 per MWh.

4. Principles for calculating the return on assets and the investment incentive.

The principles for calculating the return on assets are set up for both operators for three years. These principles are described in § II.2 of this document and include specifically:

- the rules to calculate the capital costs;
- a rate of return on assets;
- the visibility on tariff structure and the investment incentive promoting new or significantly and permanently increased regasification capacity.

The introduction in this proposal of a long term tariff visibility will facilitate operators' and shippers' decisions on long-term investments and commitments.

Moreover, this tariff proposal does not take into account possible investments in the LNG terminals related to intra-day flexibility, aiming at satisfying transmission network's intra-day balancing requirements. CRE will propose the rules to apply to such investment (rate of return and visibility) later, after further consideration.

5. Expenses and revenues clawback account (CRCP)

Tariffs are calculated on the basis of assumptions about costs and capacity reservation over the tariff validity period, which present uncertainties when the tariffs are defined.

The known reservation level for Fos Tonkin terminal is relatively low, but if the start-up of Fos Cavaou terminal is delayed, cargoes initially assigned to Fos Cavaou terminal may be diverted to Fos Tonkin.

The final Fos Cavaou terminal construction costs, its implementation decisions, as well as the costs related to capacity development projects at Montoir and Fos Tonkin terminals will be known only once the tariff has come into force.

CRE therefore proposes to introduce, as it has already done for the usage tariffs for the gas and electricity transmission and distribution networks, a mechanism to correct variances between realised and estimated expenses and revenues.

The CRCP is an extra-accounting fiduciary account, funded at regular intervals by all or part of the cost or revenue disparities observed on pre-defined items. The balance of this account is reconciled automatically at the end of each tariff period, by reducing or increasing the revenue collected via the tariffs.

In order to ensure that the mechanism is financially neutral, amounts posted to the CRCP from the time the new tariff comes into force will be adjusted to present value using an interest rate equivalent to the risk-free rate used for this tariff proposal. This rate is fixed at a nominal pre-tax rate of 4.2% per year.

In the present tariff proposal, the cost and revenue headings subject to this mechanism are:

- revenue associated with regasification capacity reservation:
 - All variances due to cargoes transferred between Fos Cavaou and Fos Tonkin terminals before Fos Cavaou terminal starts up are covered by the CRCP up to 75%;
 - All other variances are covered by the CRCP up to 50%;
- revenue from penalties invoiced by operators in cases of late cancellation of a cargo are fully covered by the CRCP in order to be redistributed to users;
- capital costs borne by operators (including the final construction costs for the Fos Cavaou terminal). The CRCP covers any variances in full;
- income and expenses relating to power sources (electricity and CO₂ quotas). The CRCP covers 90% of any variances;

If necessary, the CRCP mechanism will also include an auditing of the cost-effectiveness and probity of the costs incurred. An audit could for instance review the investments undertaken by operators and the energy costs they incur.

The results of audits carried out by CRE will also be taken into account in the CRCP.

6. Productivity related to operating costs

Any productivity gains in operating costs of Elengy and STMFC, compared to the trajectory of manageable net operating costs of each terminal, will be calculated at the end of the tariff period over the three years 2010, 2011 and 2012.

These productivity gains will be shared equally between operators and users for each LNG terminal concerned.

Any productivity gains will be reimbursed to users by reducing the recoverable costs for the next tariff period.

II – Level of usage tariffs for LNG terminals

1. Calculation of operating costs

The operating costs covered by the tariffs are calculated on the basis all the costs required to operate the LNG terminals, as they have been reported to CRE and as they appear in the operators' accounting systems.

In setting the level of these costs, CRE used specifically:

- information from Gaz de France's unbundled accounts for 2006 and 2007, and from Elengy's 2008 accounts;
- the agreement on partial asset contribution dated 1 January 2008 for Elengy;
- information from STMFC's accounts for 2007 and 2008;
- forecasted changes in costs for the years 2009 to 2012 reported by Elengy and STMFC;
- the investment audit carried out by STMFC at the end of 2006;
- the audit of forecasted changes in Elengy's operating costs carried out by an external firm.

Based on these analyses and the external audit, CRE adjusted various accounts. These adjustments did not affect the cost trajectories for personnel and infrastructure maintenance reported by the operators.

You should note that other projected income, not derived from the tariffs for using the LNG terminals, is deducted from the operating costs to be covered by the tariffs.

1.1. Audit of forecasted changes in Elengy's operating costs

Elengy became a subsidiary with retrospective effect from 1 January 2008. As a consequence, the operator was reorganized (in particular, additional human resources were recruited or transferred from other entities). Its operating costs increased.


Excluding the impact of the limitation of the added-value related to the French professional tax (see § 1.2), and for an equivalent scope, the operator was requesting an increase by 22% in average of operating costs for the next tariff period compared to the current tariff in force.

In December 2008, CRE asked an external firm to audit all Elengy's operating costs, and in particular:

- the actual operating costs for 2007 and 2008;
- the projected costs of maintenance and renovation;
- the projected costs of general upkeep and common services;
- the projected IT costs;
- the projected costs of the Shared-service Centre (*Centre du Service Partagé - CSP*).

The audited costs amounted on average to around €80M per year. The audit recommended an average adjustment in the order of €6.5M per year. It also concluded that some costs, representing on average €11.3M per year, were not supported by adequate documentation.

CRE has reviewed in detail all the cost headings identified in the audit and taken into account additional information supplied by Elengy. As regards staff costs, the CRE considers it appropriate that Elengy, as a newly constituted operator, should use all the resources it requires to carry out autonomously its activity as an LNG terminal operator. Hence it accepts Elengy's rising trajectory for employee costs.



However, over all the operating cost headings covered by the tariff for the period 2010-2012, CRE does not acknowledge €4.6M per year. The adjustments relate essentially to headings where the projected operating costs show a significant increase over the actual costs for 2008, and are supported by insufficient evidence:

- the heading for services associated with the Shared-service Centre. These are tertiary services (such as purchases, human-resource management and accountancy, etc.) subcontracted to the Shared-service Centre in GDF Suez's Infrastructure Branch;
- the heading for IT services. These are IT services shared by the entire GDF Suez Group and re-invoiced to Elengy;
- reviews and consultancy;
- other services. These costs relate mainly to services, particularly logistical services, performed for Elengy by the GDF Suez Group;
- central costs paid to GDF Suez (see § 1.3).

The overall effect of these adjustments is to reduce the costs covered for Elengy and STMFC below the trajectories presented by the two operators, by an average of €3.5M /year and €1.1M /year respectively

All else being equal, and ignoring the impact of professional tax, the operating costs covered during the next tariff period as defined by CRE are 17% higher than the costs covered in the current tariff.

1.2. Professional tax

Since the LNG terminal activities is now operated by a subsidiary of the GDF Suez Group, Elengy benefits from an added-value ceiling for the purposes of French professional tax. The ceiling effectively reduces its operating costs for the period 2010-2012 by an average of around €12M /year compared with the costs used to calculate the previous tariff (ATTM2).

1.3. Central costs paid by Elengy and STMFC to GDF Suez

Elengy and STMFC bear a portion of GDF Suez's central costs. These costs relate both to head-office and to personnel costs (mainly the 1% charge for the CCAS social fund and staff rates).

CRE has set the head-office costs covered by the tariff at the level recorded for 2007, as it has already for gas transmission and distribution. This reduces the projected costs by €1M per year for the period 2010-2012.

Overall, for the tariff period 2010-2012, central costs recognised in the tariff proposal total on average €3.5M per year.

1.4. Energy purchase

The energy costs for the three regulated LNG terminals (largely for the purchase of electricity to power the pumps in the LNG regasification system) are included in the operating costs covered by the tariff. These costs have been estimated assuming the average price over the tariff period is €57.6 per MWh.

These costs are higher than those used for the previous tariff because electricity prices have increased.

1.5. Provision for decommissioning

Since 2003, infrastructure operators have been required to recognize provisions in their accounts for restoring sites. The costs covered in the previous tariff included contributions to provisions that were based on assumed dates and costs of decommissioning the LNG terminals supplied by the operators.

The investment trajectories used for this tariff proposal include investments aimed at extending the life of the two LNG terminals at Montoir and Fos Tonkin. Now that the plans are to extend the lifetime of the two terminals to 2035, the contributions to decommissioning provisions allowed for in the tariff have been reduced by a total of €3.6M over the period 2010–2012.

2. Calculation of capital costs

Capital costs include the rates of return and depreciation applied to the Regulated Assets Base (RAB) in addition to the rate of return on current assets.

In calculating the capital costs covered by the tariffs, CRE has retained all the projected investment figures submitted by the operators. The RAB's rate of return is maintained at 7.25%, actual before tax. The additional bonus of 200 base points specific to LNG is also retained and is added to the base rate.

On the other hand, CRE has changed the methods of computing capital costs used for previous tariff calculations by:

- including the return on the financial cost of an investment as it occurs, before the investment is put to use;
- defining a new investment incentive system;
- ensuring that the tariff rules for new investments are predictable over the long term.

2.1. Regulated Assets Base

Capital costs comprise depreciation plus the financial return on capital assets.

These two components are calculated on the basis of the RAB valuation.

For Fos Tonkin and Montoir terminals CRE revalued the operator's historical assets on 31 December 2002. It used a method comparable to the method for transmission assets used by the special Commission set up under Article 81 of the French rectifying Finance Law (*loi de finances rectificative*) of 28 December 2001 to determine the transfer price for State's natural-gas transmission networks.

For Fos Cavaou terminal, the RAB includes investments (€663M) plus the operating and financial costs incurred prior to commissioning (€170M).

Assets commissioned between 1 January 2003 and 31 December 2008 are included in the RAB at their gross value. Planned investments from 1 January 2009 are included in the RAB at their projected gross value as reported by the operators. These assets are included from a standard start-of-use date (1 July in the year in which the investment began to be used).

Once assets are included in the RAB, their value is adjusted to present value as follows:

- assets are revalued on 1 January each year based on inflation from July to July. The revaluation index used is the consumer price index excluding tobacco products, as calculated by INSEE for previous years;
- assets are depreciated using the straight-line method over their economic lifetime. The lifetimes used for asset depreciation after 31 December 2002 are the same as those used to revalue assets commissioned before that date.

New terminals and extensions providing a significant long-term increase in regasification capacity are not submitted to the standard start-of-use date of 1 July: CRE proposes to use the actual commissioning date.

For Fos Tonkin and Montoir terminals, the lifetimes used for the main categories of industrial asset are defined in the following table:

Category of industrial asset	Useful life (years)
Regasification facilities	40
Civil engineering and construction	40
Storage facilities	40
Other plant (flares, tools, etc.)	40
Auxiliary facilities and unloading systems	20
Equipment (remote operation, gas-quality analyzer, etc.)	10
Property	30
Sundry equipment (e.g. vehicles, etc.)	10
Small items (PCs, etc.)	5

Lifetimes have been set prescriptively for Fos Cavaou terminal, at 40 years (77.1% of investments in the RAB) and 20 years (22.9% of investments in the RAB). Once the site is commissioned, specific asset categories will be assigned lifetimes as in the table above: any resulting adjustment will be made via the CRCP.

The calculation of RAB valuation and capital costs for the tariff validity period includes planned investment indicated by the operators, in particular associated with the following projects:

- for Fos Tonkin terminal, the project to maintain the terminal's regasification capacities at 3 Gm³/year after 2014 (investment of €26.9M for the tariff period 2010-2012) and the project to extend regasification capacities to 5.5 Gm³/year after 2014 (investment of €12.9M for the tariff period 2010-2012);
- for Montoir terminal, the project to renovate the terminal and maintain total regasification capacity at 10 Gm³/year until 2035 (investment of €74M for the tariff period 2010-2012) and the project to extend the terminal's regasification capacity to 12.5 Gm³/year (investment of €121M for the tariff period 2010-2012).

Any variance between the investment trajectory used to define the tariff and the investment actually made is managed using the CRCP mechanism.

2.2. Rate of return on assets

The method used to determine the base rate of return on assets uses the weighted-average cost of capital (WACC) for a standardized financial structure. The payback to the operator must firstly finance the interest charges on its debt, and secondly provide a return on equity comparable with what it might obtain from other investments with similar risk levels.

The cost of equity is estimated using the Capital Asset Pricing Model (CAPM or MEDAF methodology).

For this tariff proposal, CRE is keeping the value used for the current tariff i.e. 7.25 % actual before tax, based on the range of values for each parameter used in the WACC formula. Estimates for each of these parameters are shown in the table below:

Actual risk-free rate	2.3 %
Debt spread	0.4 %
Market premium	4.5 %
Equity-capital beta	1
Gearing (debt/debt + equity)	40 %
Rate of corporation tax	34.43 %
Cost of debt*	2.7 %
Cost of equity*	10.3 %
Weighted average cost of capital*	7.25 %

*Actual before tax

The bonus of 200 base points specific to LNG is retained and added to the base rate.

Assets scrapped before the end of their economic lifetime are written out of the RAB without giving rise to either depreciation or a financial return.

2.3. Visibility of the tariff and investment incentive

CRE is proposing to change the rules for investment incentives, so that incentives are both better focused and also clearer to both operators and current and future users.

It proposes firstly to remove the 125 base point bonus previously applied to all investments in LNG terminals commissioned on or after 1 January 2004.

However, in order not to invalidate previous decisions, the 125 base point bonus will continue to be applicable to all investments decided after 1 January 2004 and before 31 December 2008.

Secondly, to provide the visibility required for investment decisions and long-term commitments, CRE is proposing tariffs based on the following rules:


- the method of calculating the rate of return is fixed for 20 years. The rate is equal to the base rate applicable to natural-gas transmission assets (which may change during the period depending on future tariff decisions relating to transportation over the gas transmission networks), plus the additional 200 basis points specific to LNG;
- an additional bonus of 200 basis points is awarded for the next 10 years.

These rules apply to extensions to existing LNG terminals (as long as the increase in regasification capacity represents at least 20% of the infrastructure's initial capacity) and to new terminals that are agreed after these tariffs come into force. New created capacity must be allocated using rules previously approved by CRE.

Thus, if they are agreed, projects to extend capacity which are included in the investment trajectories defining the tariffs (Montoir (from 10 Gm³/year to 12.5 Gm³/year) and Fos Tonkin (from 3 Gm³/year to 5.5 Gm³/year)) will be subject to these rules on tariff visibility, including the bonus of an additional 200 basis points for 10 years.

2.4. Return on the financial cost of investments in the pre-operational phase

The current tariff does not provide for a return on money spent on an investment that is not yet in use (a fixed asset in progress). CRE proposes to provide a return on sums spent on fixed assets under construction. In calculating the return, 1 July of each year is considered as the standard date on which the investment expenditures are carried out. The return on fixed assets in progress is determined using the methodology



generally used for interest during construction. It is based on an interest rate comparable to the cost of debt (a nominal pre-tax rate of 4.6%) plus the risk bonus specific to the activity of operating LNG terminals (200 basis points).

For terminals in use, this return is included in the tariff and is one of the capital costs included in the CRCP.

2.5. Exchanges of thermal energy with Air Liquide

Air Liquide and Elengy have had industrial agreements to exchange fluids and energy at Fos Tonkin since their two sites were built at the same time in 1970. The exchanger they use (EC 19) to pass heat energy between gaseous nitrogen and LNG has reached the end of its life. Elengy and Air Liquide have decided to extend their partnership in a new 15-year contract, and as a result, Elengy has invested in a new exchanger (EC 20).

The EC 20 is a specific investment that is not necessary for the LNG regasification function, but which promotes industrial synergies that are both economically and environmentally positive. Cold sources are not rejected in the environment, as it happens in most terminals, but are recycled for regasification uses. Such an exchange enables Elengy to avoid the cost of an electricity supply.

The regulatory mechanisms must allow and promote initiatives of this kind: they benefit both the industrial businesses concerned and the terminal users.

In this context, CRE uses the following tariff treatment for this investment:

- the asset associated with the exchanger is included in the RAB. It will be depreciated over the same period as the regasification assets (40 years) and remunerated at the rate used for the RAB (10.5% for the current tariff period, since the investment was decided before 31 December 2008);
- the tariff takes into account the operational costs of managing the exchanger;
- 90% of the income received by Elengy relating to the contract with Air Liquide is deducted from the operating costs covered by the tariff, and Elengy keeps the remaining 10%.

3. Total charges to be covered

3.1. Capital costs

- Regulated Assets Base

Elengy: Fos Tonkin terminal

€M	Estimated	Forecast		
		Tariff period		
	2009	2010	2011	2012
RAB at 1/1/n	136.0	143.6	134.8	130.3
Investment*	19.5	2.5	7.3	13.8
Depreciation	-13.4	-13.9	-14.4	-13.3
Revaluation	1.4	2.6	2.6	2.6
RAB at 31/12/n	143.6	134.8	130.3	133.5

* Investments included in the RAB

Elengy: Montoir terminal

€M	Estimated	Forecast		
		Tariff period		
	2009	2010	2011	2012
RAB at 1/1/n	222.3	249	270.1	284.3
Investment*	40.9	33.9	27.9	27.8
Depreciation	-16.7	-18	-19.2	-20.2
Revaluation	2.5	5.3	5.6	5.8
RAB at 31/12/n	249	270.1	284.3	297.8

* Investments included in the RAB

STMFC: Fos Cavaou terminal

€M	Forecast		
	Tariff period		
	2010	2011	2012
RAB at 1/1/n	833.0	817.5	809.3
Investment*	2.0	2.0	2.0
Depreciation	-25.6	-26.0	-26.6
Revaluation	8.1	15.9	15.7
RAB at 31/12/n	817.5	809.3	800.4

* Investments included in the RAB

- Capital costs

Elengy: Fos Tonkin terminal

€M	Forecast			Average 2010-2012
	Tariff period (ATTM3)			
	2010	2011	2012	
Depreciation of assets in use	13.9	14.4	13.3	13.9
Return on assets in use	13.9	13.2	13.0	13.4
Return on fixed assets in progress	0.6	1.0	1.5	1.0
Total capital costs	28.4	28.6	27.8	28.3

Elengy: Montoir terminal

€M	Forecast			Average 2010-2012
	Tariff period (ATTM3)			
	2010	2011	2012	
Depreciation of assets in use	18.0	19.2	20.2	19.1
Return on assets in use	25.5	27.5	29.1	27.4
Return on fixed assets in progress	1.8	3.2	6.7	3.9
Total capital costs	45.3	49.9	56.0	50.4

STMFC: Fos Cavaou terminal

€M	Forecast			Average 2010-2012
	Tariff period (ATTM3)			
	2010	2011	2012	
Depreciation of assets in use	25.6	26.0	26.6	26.1
Return on assets in use	87.6	85.9	85.1	86.2
Return on fixed assets in progress	0.0	0.0	0.0	0.0
Total capital costs	113.2	111.9	111.7	112.3

3.2. Operating costs

Elengy: Fos Tonkin terminal

€M	Forecast			Average 2010-2012
	Tariff period			
	2010	2011	2012	
Gross operating costs	31.1	31.6	31.9	31.5
Operating income	-4.7	-4.8	-5.0	-4.8
Total net operating costs	26.4	26.8	26.9	26.7

Elengy: Montoir terminal

€M	Forecast			Average 2010-2012
	Tariff period			
	2010	2011	2012	
Gross operating costs	52.1	55.9	56.8	55.0
Operating income	-5.2	-5.5	-5.6	-5.5
Total net operating costs	46.9	50.4	51.2	49.5

STMFC: Fos Cavaou terminal

€M	Forecast			Average 2010-2012
	Tariff period			
	2010	2011	2012	
Gross operating costs	38.5	39.2	44.6	40.8
Operating income	-1.6	-1.6	-1.6	-1.6
Total net operating costs	36.9	37.6	43.0	39.2

3.3. Authorized revenue

The total costs covered by the tariff are as follows for each operator:

Elengy: Fos Tonkin terminal

€M	Forecast			Average
	Tariff period			
	2010	2011	2012	2010-2012
Capital costs	28.4	28.6	27.8	28.3
Net operating costs	26.4	26.8	26.9	26.7
Total authorised revenue	54.8	55.4	54.7	55.0

Elengy: Montoir terminal

€M	Forecast			Average
	Tariff period			
	2010	2011	2012	2010-2012
Capital costs	45.3	49.9	56.0	50.4
Net operating costs	46.9	50.4	51.2	49.5
Total authorised revenue	92.2	100.3	107.2	99.9

STMFC: Fos Cavaou terminal

€M	Forecast			Average
	Tariff period			
	2010	2011	2012	2010-2012
Capital costs	113.2	111.9	111.7	112.3
Net operating costs	36.9	37.6	43.0	39.2
Total authorised revenue	150.1	149.5	154.7	151.5

III - Subscriptions for regasification capacity

1. Terminals at Fos Tonkin and Montoir

This tariff proposal relates to a tariff period during which the technical capacity of the two LNG terminals operated by Elengy will diminish:

- regasification capacity at Montoir terminal in 2010 and 2011 will be reduced because of the current renovation programme. This will extend the terminal's life, while keeping the capacity unchanged, until 2035;
- regasification capacity at Fos Tonkin terminal will be reduced between 2010 and 2012 during the renovation work on some key facilities (wharves and unloading arms).

Fos Tonkin	ATTM2		Montoir	ATTM2	
	2006	2007		2006	2007
Subscriptions taken into account in the current tariff (in TWh/year)	83	83	Subscriptions taken into account in the current tariff (in TWh/year)	107	103
Actual subscriptions in TWh/year	83	83	Actual subscriptions in TWh/year	111	117

Fos Tonkin terminal

The level of firm subscriptions to date for Fos Tonkin terminal is slightly below the terminal's commercial capacity and may therefore increase during the tariff period. In these circumstances, the subscriptions used to calculate Fos Tonkin tariff have been assumed to be equal to the firm subscriptions for the tariff period 2010-2012 uplifted by 3 TWh/year. The assumed average subscription level is thus 51 TWh/year for the period 2010-2012.

Fos Tonkin	Actual	Forecast	Tariff period (ATTM3)		
	2008	2009	2010	2011	2012
Marketable capacity in TWh/year	83	79	65	57	61
Known subscriptions in June 2009 in TWh/year	80	71	48	48	48

Montoir terminal

The subscriptions assumptions for the calculation of Montoir tariff are based on the known subscriptions, since the subscription level known is very close to the terminal's commercial capacity.

Montoir	Actual	Forecast	Tariff period (ATTM3)		
	2008	2009	2010	2011	2012
Marketable capacity in TWh/year	123	120	110	120	123
Known subscriptions in June 2009 in TWh/year	107	114	108	119	123

2. Fos Cavaou terminal

The subscription level used to define the tariff for Fos Cavaou terminal is equal to the terminal's technical capacity.

Fos Cavaou	Tariff period (ATTM3)		
	2010	2011	2012
Technical capacity in TWh/year	97	97	97

3. Taking account of ship or pay

The subscription used to define the tariff charges consider an assumption of a "ship or pay" of 95% at each of the three terminals.

IV – Structure of the usage tariffs for the LNG terminals

1. Simplifying the tariff structure

The current tariff, which applies to Montoir and Fos Tonkin terminals, include the following six factors:

- **the number of unloading operations.** This accounts for between 3 and 10% of a user's total invoice;
- **the quantity unloaded** (on average between 70 and 95% of the invoice). This term is reduced if a subscription is made after the unloading operations scheduled for the month (spot service), to encourage shippers to use capacity available at the terminal until the last moment;
- **the use of regasification capacity.** This is calculated from the average interval between the arrival of two ships;
- **the reception capacity.** This is calculated from the average cargo size and represents the storage capacity required to unload a cargo;
- **the regularity.** This is calculated from the variance, as an absolute value, between the quantities of LNG unloaded in winter and the quantities unloaded in summer. It is used to encourage shippers to space their cargos as evenly as possible throughout the year;
- **the gas in kind.** This is gas withheld by the operator (0.5% of the natural gas unloaded).

The existing tariff structure is largely maintained. Only the reception capacity is dropped to simplify the tariff and reduce the difference between the unit prices paid by different types of user, based on the booked volumes. This simplified tariff structure helps to reduce the difference in price between banded and continuous services.

In addition, the deduction for gas in kind at the Fos Tonkin LNG terminal has been reduced to 0.3%. Records show that it uses combustion regasifiers less than does Montoir.

For quantities unloaded at the Montoir terminal, the factor is still 0.5%. For the Fos Cavaou terminal, the factor is fixed at 0.5% of the quantity unloaded.

2. Change in the service offered to LNG-terminal users

The current tariff rules assume that LNG terminals have several users with different usage profiles:

- regular users (currently 12 or more unloading operations per year);
- occasional users (currently fewer than 12 unloading operations per year; or an unloading operation scheduled for month m after the 20th of month $m-1$).

Based on this model, emission capacity is divided between two different services (one of which has two separate prices), according to the users' profiles:

- **continuous emission service:** for users scheduling an average of more than one ship per month throughout the year, daily emission is set by the terminal operator to be as regular as possible, based on the particular user's unloading schedule. A user may have some flexibility, as far as the terminal allows. If several users book the continuous emission service, the operator of the LNG terminal submits, for CRE's approval, rules for sharing regasification capacity between those users;
- **emission service in 30-day bands:**
 - **"banded" service:** for users scheduling an annual average of less than one boat per month, the cargo is regasified with a constant emission over 30 days. This service means that single cargos are delivered in a constant flow over a relatively long period, so that delivery is regular and suitable for the downstream market. The 30-day band is not flexible, but the emission is guaranteed.

- **“spot” service:** reserved for unloading operations booked for month m after the 20th of month $m-1$. The corresponding cargos pay a reduced price. This encourages shippers to benefit from the remaining available terminal capacity until the last moment so that the use of that capacity is optimized.

2.1. Extending access to the continuous service

To increase the flexibility of use of regulated LNG terminals, this tariff proposal offers to the users of the three LNG terminals the option of choosing the continuous service if they book ten or more unloading operations per year, rather than twelve or more per year,.

2.2. Improving the flexibility of the emission service in 30-day bands:

This tariff proposal introduces more flexibility for users of the banded emission service. They may on request delay or advance the start of output flow linked to a particular cargo by one or two days. Output still remains constant for 30 days.

This option creates two new services:

- **emission deferral service:** this enables users of banded and spot services to delay the start of the emission flow until one or two days after originally scheduled, after the cargo has been unloaded;
- **emission advancement service:** this enables users of banded and spot services to bring forward the start of output flow relating to a cargo to one or two days before originally scheduled, after the cargo has been unloaded;

3. Optimizing the use of regasification capacity

LNG terminals are scarce and expensive infrastructures, and complex to manage when used by several shippers. It is therefore essential to use mechanisms that facilitate their capacity commercialisation and optimize their effective use.

3.1. Change in the payment obligation for booked capacity (“ship or pay”)

This obligation currently applies to 90% of capacity booked at Fos Tonkin and Montoir terminals, and to 95% of booked capacity at Fos Cavaou terminal.


In the future, it will be set at 95% for the three terminals. This makes operator revenue more secure and encourages users to book capacity that corresponds precisely to their requirements.

3.2. Change of the treatment of failures to stick to the schedule

This procedure applies if an unloading operation subscribed in the monthly schedule is cancelled. In practice, any cancellation can affect emission flows for other users and mean that the terminal operator does not have an optimal emission rate.

Under the current tariff, every user cancelling an unloading operation scheduled for month m pays a penalty of €10,000 if the following three conditions are met:

- the notice is less than or equal to 5 days;
- the unloading operation is not rescheduled in month m or in the first 5 days of month $m+1$;
- the slot cannot be used by another shipper.



The next set of tariffs offers two alternative mechanisms:

- an obligation to compensate, either in gas or financially, the shipper or shippers whose emissions have been reduced as a consequence of the alteration;
- a penalty set at 50% of the regasification cost, if the cancellation is not directly linked to an instance of force majeure and if the notice period is less than three days. A shipper that has cancelled its cargo will be the first to have its scheduled output reduced, if this proves necessary. Income relating to this penalty will be wholly distributed between terminal users via the CRCP.

3.3. Changes to the “use-it-or-lose-it” mechanism

In order to optimize the use of regasification capacity at LNG terminals and avoid any risk of capacity hoarding, the “use it or lose it” mechanism implemented by Elengy is strengthened by:

- improving the published information: more detailed information published and update of the unloading schedule for the current month;
- the submission to CRE of a consignment record by terminal operators that reports the cancelled unloading operations and the deferred or advanced emissions.

TARIFFS FOR USING THE LIQUIFIED NATURAL GAS TERMINALS

I - Definitions

1. Base services offered

Continuous emission service: this service is intended for shippers that on average unload ten or more cargos at a terminal in the course of the year. For this service, the operator provides a continuous emission over the contractual period. The emission is made as regular as possible for the user, given the terminal's overall schedule of unloading operations; When several users book the continuous emission service with an LNG terminal operator, the operator submits draft rules for sharing regasification capacity between those users for CRE's approval.

Emission service in 30-day bands:

- **“banded” service:** this service is intended for shippers that unload at most one cargo per month, averaged over the year, at a terminal. For this service, each cargo is sent out as a constant band that continues for 30 days after the date unloading finishes;
- **“spot” service:** this service is intended for cargos unloaded in month m that were booked after the 20th of month $m-1$. Subscriptions are for slots that were vacant in the monthly schedule at the time of the booking. Each cargo is sent out as a constant band that continues for 30 days from the end date of the unloading.

2. Tariff terms

TND	term based on the number of unloading operations, measured as each cargo unloaded at the LNG terminal;
TQD	term based on the quantity unloaded, measured as the amount of LNG unloaded, expressed in €/MWh;
TUCR	term based on the use of regasification capacity, applied to the average interval between the arrival of two ships (time limited to one month), expressed in €/MWh;
TR	regularity term, based on the variance, as an absolute value, between the quantities of LNG unloaded in winter and the quantities unloaded in summer, expressed in €/MWh;
TN	term relating to gas in kind, intended to cover the gas consumed by the LNG terminal.

3. Other definitions

Shipper: the natural person or legal entity that enters into a regasification contract with an LNG terminal operator.

Authorized revenue: sum of the projected capital and operating costs used to define each operator's tariff structure.

II - Principles for calculating the return on LNG assets

The rules for calculating return defined below are fixed for a three-year period, from 1 January 2010 for terminals operated by Elengy and from the commissioning date of Fos Cavaou terminal operated by STMFC.

1. Calculating capital costs

Capital costs include both the return on and the depreciation of the Regulated Assets Base (RAB) as well as the return on fixed assets in progress.

The RAB includes all investments made by the operators. Assets in the RAB are revaluated on 1 January in each year. The revaluation index is based on the change in the consumer price index excluding tobacco products from July to July, as calculated by INSEE for all households resident in France.

For each year the tariff applies, the value of the fixed assets in progress is equal to the average of the values of these assets on 1 January and on 31 December. It takes into account expenditure during the year.

2. Rates of return

For the next tariff period, the rate of return on the RAB is 7.25%, actual before tax. A bonus of 200 basis points is added to cover risks specific to the activity of operating an LNG terminal.

The rate of return on fixed assets in progress is 6.6%, nominal before tax. This rate comprises an interest rate comparable to the cost of debt (4.6%) plus the 200 base point bonus specific to the activity of operating an LNG terminal.

3. Investment incentive

If newly-created capacity is allocated using rules previously approved by CRE, then for extensions to existing LNG terminals where the increase in regasification capacity represents at least 20% of the infrastructure's initial capacity and for new terminals:

- the method of calculating the rate of return is fixed for 20 years. The rate is equal to the base rate applicable to natural-gas transmission assets (which may change during the period depending on future tariff decisions relating to transportation over the gas transmission networks), plus the additional 200 basis points specific to LNG;
- an additional bonus of 200 basis points is granted for the next 10 years.

III – Tariffs for using LNG terminals operated by Elengy

The usage tariffs for Elengy terminals defined below apply from 1 January 2010 for a period of three years.

However, if an extension to either terminal is commissioned before 31 December 2012, CRE may propose a new tariff for the terminal at the time the extension is commissioned.

1. Trajectory for authorized revenue

The authorized-revenue trajectory for Elengy terminals is fixed for three years. It comprises the following:

€M	Fos Tonkin		
	2010	2011	2012
Capital costs	28.4	28.6	27.8
Net operating costs	26.4	26.8	26.9
<i>including energy costs (electricity and CO₂ quotas)</i>	2.6	2.8	2.9
<i>including central costs</i>	0.8	0.8	0.8
Total authorized revenue	54.8	55.4	54.7

€M	Montoir		
	2010	2011	2012
Capital costs	45.3	49.9	56.0
Net operating costs	46.9	50.4	51.2
<i>including energy costs (electricity and CO₂ quotas)</i>	5.2	6.6	6.8
<i>including central costs</i>	1.8	1.8	1.9
Total authorized revenue	92.2	100.3	107.2

At the end of the tariff period, any productivity gains related to operating costs that Elengy may have made will be shared equally between the LNG terminal's operator and users.

These productivity gains will be measured for each terminal as the difference between:

- the total value of the operator's net controllable operating costs, defined as the net operating costs reduced by central costs and the retained cost of energy, calculated from actual data for 2010, 2011 and 2012;
- the reference trajectory for the operator's net controllable operating costs for 2010, 2011 and 2012.

Productivity gains will be reimbursed to users by reducing the recoverable costs for the next tariff period.

2. Accounting for the balance on CRCP at the end of the tariff period

At the end of the tariff period, CRE calculates the balance on the CRCP for each terminal. This balance is the sum of the variances recorded for the accounts shown in the table below, and is one factor determining the tariff for the following tariff period.

€M	Fos Tonkin		
	2010	2011	2012
Revenue related to subscriptions: 50% of variance covered	54.8	55.4	54.7
Capital costs: 100% of variance covered	28.4	28.6	27.8
Energy costs (electricity and CO ₂ quotas): 90% of variance covered	2.6	2.8	2.9
Revenue from the penalty for cancelling an unloading operation late: 100% of variance covered	0	0	0

* between 1 January 2010 and the time the Fos Cavaou terminal is commissioned, and excluding subscriptions known when the tariff was defined, 75% of all additional revenue from shippers holding long-term capacity at Fos Cavaou who book additional capacity at the Fos Tonkin terminal will be redistributed to users of the Fos Tonkin terminal via the CRCP.

€M	Montoir		
	2010	2011	2012
Revenue related to subscriptions: 50% of variance covered	92.2	100.3	107.2
Capital costs: 100% of variance covered	45.3	49.9	56.0
Energy costs (electricity and CO2 quotas): 90% of variance covered	5.2	6.6	6.8
Revenue from the penalty for cancelling an unloading operation late: 100% of variance covered	0	0	0

The amounts accounted for via the CRCP are adjusted to current value using an interest rate equivalent to the risk-free rate used for this tariff proposal. This rate is fixed at a nominal pre-tax rate of 4.2% per year.

3. Tariff structure for using the Fos Tonkin terminal

The tariff for using the Fos Tonkin terminal is defined in the following table:

TND	$€40,000 \times T$
TQD	For the continuous service: $€1.024 \times Q$ For the banded service: $€1.024 \times Q$ For the spot service: $€0.768 \times Q$
TUCR	$€0.18 \times Q \times N$
TR	For the continuous service: $€0.27 \times Q_h - Q_e $ For the banded service: $€0.04 \times Q_h - Q_e $ Not relevant for the spot service
TN	$0.3\% \times Q$

T = number of cargoes unloaded per year

Q = quantity of LNG unloaded per year, expressed in MWh

Qe = quantity of LNG unloaded during the summer months (1 April – 30 September), expressed in MWh

Qh = quantity of LNG unloaded during the winter months (1 October – 31 March), expressed in MWh

N = average interval between the arrival of two ships, expressed as a fraction of a month:
N = min (12/T, 1).

Users reserving 10 unloading operations per year or more may choose the continuous service.

The spot service with a 30-day band is reserved for unloading operations booked for month m after the 20th of month $m-1$.

The operator must draw up a statement showing its use of gas in kind at least once a year. If this shows that the quantity of gas taken is greater than the quantity of gas consumed by the LNG terminal, the operator pays shippers that have unloaded LNG at the terminal during the previous year for the gas surplus. Payment is either financial or in kind, and is proportional to the quantities of LNG the shippers have unloaded. The operators will consult users before defining how this annual redistribution is managed in practice, and will then send the procedures to CRE for approval.

4. Tariff structure for using the Montoir terminal

The tariff for using the Montoir terminal is defined in the following table:

TND	$€40,000 \times T$
TQD	For the continuous service: $€0.840 \times Q$ For the banded service: $€0.840 \times Q$ For the spot service: $€0.630 \times Q$
TUCR	$€0.18 \times Q \times N$
TR	For the continuous service: $€0.21 \times Q_h - Q_e $ For the banded service: $€0.04 \times Q_h - Q_e $ Not relevant for the spot service
TN	$0.5\% \times Q$

T = number of cargoes unloaded per year

Q = quantity of LNG unloaded per year, expressed in MWh

Q_e = quantity of LNG unloaded during the summer months (1 April – 30 September), expressed in MWh

Q_h = quantity of LNG unloaded during the winter months (1 October – 31 March), expressed in MWh

N = average interval between the arrival of two ships, expressed as a fraction of a month:
 $N = \min(12/T, 1)$.

Users reserving 10 unloading operations per year or more may choose the continuous service.

The spot service with a 30-day band is reserved for unloading operations booked for month *m* after the 20th of month *m-1*.

The operator must draw up a statement showing its use of gas in kind at least once a year. If this shows that the quantity of gas taken is greater than the quantity of gas consumed by the LNG terminal, the operator pays shippers that have unloaded LNG at the terminal during the previous year for the gas surplus. Payment is either financial or in kind, and is proportional to the quantities of LNG the shippers have unloaded. The operators will consult users before defining how this annual redistribution is managed in practice, and will then send the procedures to CRE for approval.

IV – Tariff for using the LNG terminal at Fos Cavaou

The tariff defined below for using the Fos Cavaou LNG terminal applies from the commissioning date of the terminal, for a period of three years.

1. Trajectory for authorized revenue

The STMFC's authorised revenue is defined below:

€M	Fos Cavaou		
	2010	2011	2012
Capital costs	113.2	111.9	111.7
Net operating costs	36.9	37.6	43.0
<i>including energy costs (electricity and CO2 quotas)</i>	3.4	3.4	3.5
<i>including central costs</i>	0.9	0.8	0.8
Total authorized revenue	150.1	149.5	154.7

At the end of the tariff period, productivity gains related to operating costs that the STMFC may make will be shared equally between the LNG terminal's operator and users.

These productivity gains will be evaluated based on the difference between:

- the total value of the operator's net controllable operating costs, defined as the net operating costs reduced by central costs and the cost of retained energy, calculated from actual data for 2010, 2011 and 2012;
- the reference trajectory for the operator's net controllable operating costs for 2010, 2011 and 2012.

Productivity gains will be reimbursed to users by reducing the recoverable costs for the next tariff period.

2. Accounting for the balance on the CRCP at the end of the tariff period

At the end of the tariff period, CRE calculates the balance of the CRCP as the sum of the variances recorded for the accounts shown in the table below. This balance is one factor determining the tariff for the following tariff period.

€M	Fos Cavaou		
	2010	2011	2012
Revenue related to subscriptions: 50% of variance covered	150.1	149.5	154.7
Capital costs: 100% of variance covered	113.2	111.9	111.7
Energy costs (electricity and CO ₂ quotas): 90% of variance covered	3.4	3.4	3.5
Revenue from the penalty for cancelling an unloading operation late: 100% of variance covered	0	0	0

The amounts accounted for via the CRCP are adjusted to current value using an interest rate equivalent to the risk-free rate used for this tariff proposal. This rate is fixed at a nominal pre-tax rate of 4.2% per year.

3. Tariff structure for the use of the Fos Cavaou terminal

The tariff for using the Fos Cavaou terminal is defined in the following table:

TND	$€50,000 \times T$
TQD	For the continuous service: $€1.574 \times Q$ For the banded service: $€1.574 \times Q$ For the spot service: $€1.181 \times Q$
TUCR	$€0.18 \times Q \times N$
TR	For the continuous service: $€0.30 \times Q_h - Q_e $ For the banded service: $€0.04 \times Q_h - Q_e $ Not relevant for the spot service
TN	$0.5\% \times Q$

T = number of cargoes unloaded per year

Q = quantity of LNG unloaded per year, expressed in MWh

Q_e = quantity of LNG unloaded during the summer months (1 April – 30 September), expressed in MWh

Q_h = quantity of LNG unloaded during the winter months (1 October – 31 March), expressed in MWh

N = average interval between the arrival of two ships, expressed as a fraction of a month:
N = min (12/T, 1).

Users reserving 10 unloading operations per year or more may choose the continuous service.

The spot service with a 30-day band is reserved for unloading operations booked for month *m* after the 20th of month *m-1*.

The operator must draw up a statement showing its use of gas taken in kind at least once a year. If this shows that the quantity of gas taken is greater than the quantity of gas consumed by the LNG terminal, the operator pays shippers that have unloaded LNG at the terminal during the previous year for the gas surplus. Payment is either financial or in kind, and is proportional to the quantities of LNG the shippers have unloaded. The operators will consult users before defining how this annual redistribution is managed in practice, and will then send the procedures to CRE for approval.

V – Additional services and obligations associated with the use of regulated terminals

Operators are offering two new services that delay or advance output at the three regulated terminals. The operators will consult users before defining how these two services will work in practice, and will then send the procedures to CRE for approval.

1. Emission deferral service

This service enables users of banded and spot services to delay the start of emission flow until one or two days after originally scheduled, after the cargo has been unloaded;

Principles:

The person booking the service for an unloading operation scheduled for month m must apply to the terminal operator before the 20th of month $m-1$. The operator reviews the impact on other terminal users' emission and then announces to the applicant at the latest on the 25th of month $m-1$ whether or not the service is feasible.

If the application is made after the 20th of month $m-1$, the operator uses its best endeavours to review the application as soon as possible.

Tariff:

The tariff for the emission deferral service includes:

- a fixed part to cover the terminal operator's management expenses;
- a variable part proportional to the number of days deferred.

$$\text{Tariff (€)} = F_g + N_j \times 7,500$$

where:

F_g = management expenses (set at €10,000 per deferral application)

N_j = number of days deferral requested (between 1 and 2)

The annual income generated by this service will be shared at the start of the following year between the operator (50%) and the shippers using the continuous service (50%), in proportion to the quantities they have unloaded over the past year.

2. Emission advancement service

This service enables users of banded and spot services to bring forward the start of emission flow relating to a cargo to one or two days before originally scheduled, after that cargo has been unloaded;

Principles:

This service uses the same rules as those defined for the emission flow deferral service as regards to the period of service subscription and the division of income between the terminal's operator and shippers.

To cover the risk of a cargo cancellation when gas relating to it has already been sent out, the shipper must provide a guaranty to the operator when it subscribes the service. The guaranty amount should be equivalent to the volume sent out over two days for the cargo concerned, based on a reference price.

Tariff:

The tariff for the emission advancement service includes:

- a fixed part to cover the terminal operator's management expenses;
- a variable part proportional to the number of days of the emission advancement.

$$\text{Tariff (€)} = F_g + N_j \times 7,500$$

where:

F_g = management expenses (set at €10,000 per advancement application)

N_j = number of days advancement requested (between 1 and 2)

3. Obligation to pay for subscribed capacity (“ship or pay”)

Shippers have an obligation to pay a minimum of 95% of an annual invoice based on the subscribed number of unloading operations and the quantities to be unloaded.

4. Treatment of failures to stick to schedule

Each user cancelling a scheduled unloading operation for month m is subject to one of the following:

- an obligation to compensate, either in gas or financially, the shipper whose emission is reduced as a result;
- a penalty set at 50% of the cost of regasifying the load, if the cancellation is not directly linked to a force majeure case and if less than three days' notice is given. A shipper that has not unloaded its cargo will be the first to have its scheduled output reduced, if necessary. Income relating to this penalty will be wholly distributed between terminal users via the CRCP.

The operators will consult users before defining the procedures for the treatment of the unloading cancellation operations scheduled for month m , and will send them to CRE for approval. Operators will then publish the procedures on their web site.

5. “Use-it-or-lose-it” mechanism

The subscribers of regasification capacity at LNG terminals have to indicate to the operators their requested monthly schedule of unloading operations, at the latest on the 20th of month m , for month $m+1$, as well as their draft unloading schedules for months $m+2$ and $m+3$.

On the 25th of month m for month $m+1$, the terminal operator publishes the available capacity, adjusted for quantities subscribed but not requested by users for month $m+1$. The operator updates this information for the current month at the start of the second week of the month.

If the schedule for month $m+1$ shows no available unloading slot, each cancellation of an unloading operation without notice, unless for reasons of force majeure, will be formally noted and the regulator informed. When the terminal's capacity is fully booked, CRE may require the concerned shipper to release subscribed capacity on a case by case basis, in order to free capacity at the terminal.

If access to the terminal's regasification capacity is seen to be congested, the terminal operator will, upon CRE's request, provide it with full information on subscriptions requests for the period of congestion.

In order to enable a proper functioning of the UIOLI mechanism, regulated French terminal operators must publish at least the following information on their website:

- the terminal's technical capacity for the months $m+1$ to $m+6$;
- the terminal's subscribed capacity for the months $m+1$ to $m+6$;
- the projected number of available unloading slots for the months $m+1$ to $m+3$.

This information is published monthly and will be supplemented by aggregated figures published for full years:

- the terminal's technical capacity, at least for the years n+1 to n+20;
- the available capacity, at least for the years n+1 to n+20;

Each month, terminal operators will communicate to CRE a consignment record reporting cancelled unloading operations and emissions that have been deferred or advanced.

6. Secondary market in regasification capacity

Regasification capacity marketed by operators may be transferred in whole or in part between users.

The operators will consult users before defining the practical management procedures of the secondary market, and will send the details to CRE for approval. Operators will then publish these procedures on their website.

7. LNG exchange point

Each LNG terminal has a gas exchange point, so that users can exchange quantities of LNG between themselves.

The operators define, based on objective, transparent and non-discriminatory criteria, how LNG exchange points are managed in practice. They send the details to CRE and publish them on their website.

The tariff for accessing an LNG exchange point includes:

- a fixed term of not higher than €500 per month per exchange point;
- a term proportional to the quantities exchanged, not higher than €0.01 /MWh.

8. Specific services

The specific services required for regasification (for instance, official authorization for LNG tankers that might unload), are described in a catalogue of services published on the operator's website, together with the tariff that applies to each service.

CRE may audit this catalogue.

Signed in Paris on 16 July 2009

For the French Energy Regulatory Commission,
The Chairman,

Philippe de LADOUCETTE