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Summary of the public consultation on the commercialisation rules proposed by GRTgaz and Elengy for long-term capacity released within the framework of GDF Suez commitments

From 15 January to 25 January 2010, CRE held a public consultation on the commercialisation rules proposed by GRTgaz and Elengy for long-term capacity released within the framework of GDF Suez commitments.

Some 14 contributions were sent to CRE:

- 9 from shippers,
- 2 from associations,
- 3 from gas infrastructure operators.



Question 1:

Are you in favour of the principle of successive commercialisations of transmission capacities on entry point? If so, do you agree with the forecast timetable?

Thirteen players answered this question: 2 gas infrastructure operators, 9 shippers and 2 associations.

❖ **Gas infrastructure operators**

GRTgaz believes that the proposed commercialisation principle complies with the commitments made before the European Commission. It also believes that the timetable it envisages will ensure transparent and non-discriminatory treatment.

One gas infrastructure operator thinks that a timetable with successive sales does not seem to afford shippers an overall view of the supply chain.

❖ **Shippers and associations**

Most shippers are in favour of CRE's proposal to organise two phases of successive commercialisations for the capacities released at Obergailbach, and at Taisnières and Dunkirk, and that the proposed timetable is appropriate.

Conversely, two associations and two suppliers propose a modification to the planned timetable, despite being in favour of the principle of successive commercialisations of capacity. They believe that the three-month period between the publication of the European Commission's decision and its implementation does not leave enough time to make commitment decisions. The four days between the two commercialisation rounds is also considered insufficient to establish a position with the necessary visibility. One shipper is in favour of the following commercialisation order: Dunkirk, then Taisnières H, and lastly Obergailbach, and would like the commercialisations of capacity by Elengy and GRTgaz to be coordinated.

One shipper is not in favour of the commercialisation principles proposed by GRTgaz, believing that selling so much capacity at once will lead to a capacity supply exceeding the actual requirements of subscribers. This shipper recommends a gradual commercialisation of capacity over 4 years, which would enable subscribers to acquire the necessary customer portfolio in the meantime.

Question 2:

Considering these elements, do you agree with the capacity allocation rule proposed by GRTgaz which takes into account the duration of requests? Do you agree with the same priority rule for requests covering a duration equal to or over ten years?

Eleven players answered this question: 1 gas infrastructure operator, 8 shippers and 2 associations.

❖ **Gas infrastructure operators**

GRTgaz is in favour of an allocation rule which takes into account the duration of requests, in that this point is clearly stated in the commitment document. It is also in favour of the application of the same level of priority for requests covering a duration equal to or over ten years, in accordance with the practices currently in force for open seasons.

❖ **Shippers and associations**

Three shippers and one association agree with the allocation rule taking into account the duration and the same priority rule for requests covering a duration equal to or over ten years. One association, however, requests an explanation of the application rules of the Use-It-Or-Lose-It system.

Six shippers and one association have reservations about giving priority to the commercialisation of long-term capacity.

Two shippers and one association are in favour of the allocation rule taking into account duration, but propose to set the same priority limit to five years instead of ten. One of these contributors believes that the ten year limit is appropriate for open seasons, because an investment decision must be made. The limit of this priority rule should therefore be lowered because commercialised capacity is already amortised and does not require a long commitment duration. According to one association, the risks taken by new entrants increases with the duration of their requests. As a result, a five-year limit rather than ten years would increase the number of requests for capacity. In addition, this association believes that the objective to develop competition could be reached by giving priority to end customers holding a supply license and little or no entry capacity.

Four suppliers are against the allocation rule taking into account duration. One shipper thinks that the release of capacity aims to develop competition, which requires flexible implementation as new entrants lack visibility. According to this shipper, a rule taking into account the duration of requests would have a negative impact on the necessary flexibility of allocations. Consequently, it proposes to limit the subscription duration to four years and to allocate capacity on a pro rata basis of requests with a minimum limit. Moreover, these allocation durations should, according to this shipper, also be applied to capacity commercialised upstream. One shipper is not in favour of capacity being commercialized for durations over five years. Two shippers propose to keep part of capacities with a view to short-term commercialisation in order to enable new entrants to develop their customer portfolios and negotiate upstream supply contracts.



Question 3:

Do you agree with the lesser priority rule proposed by CRE for shippers holding a substantial portion of long-term firm capacities?

Thirteen players answered this question: 2 gas infrastructure operators, 9 shippers and 2 associations.


❖ **Gas infrastructure operators**

The two gas infrastructure operators are against the lesser priority rule for shippers holding a substantial portion of long-term firm capacities. One gas infrastructure operator states that this criterion is ambiguous and difficult to implement. For GRTgaz, for each of the entry points concerned by the commitments, there is available capacity over durations of one to four years.

❖ **Shippers and associations**

Most shippers and associations are in favour of CRE's proposal. Three shippers state that this rule will encourage access to the GRTgaz network by new entrants or will increase players. One shipper suggests, however, decreasing the limit to 6% for the proportion of capacity held and the duration to three years. Another shipper would like this rule to be applied to subsidiary branches as to parent companies verifying the criterion.

One shipper is against this proposal and states that it seems discriminatory.



Question 4 :

Do you agree with the introduction of a minimum “acceptance” threshold proposed by CRE in the commercialisation rules?


Twelve players answered this question: one gas infrastructure operator, 9 shippers and 2 associations.

❖ **Gas infrastructure operators**

GRTgaz is against the introduction of a minimum acceptance threshold as this rule would make capacity allocation more complicated. As regards the Obergailbach entry point, GRTgaz does not think that it can provide clear and simple proof of compliance with non-discrimination and transparency rules, due to the increased complexity of the allocation rules caused by this threshold. Moreover, it states that the introduction of such a threshold increases the risk of unsold capacity.

❖ **Shippers and associations**

The vast majority of shippers and associations are in favour of CRE's proposal. One shipper notes that this threshold would have the advantage of preventing the fragmentation of entry capacity. Another shipper believes that this rule would better distribute available capacity. One association notes that this threshold would result in less risk for new entrants. One shipper, however, regrets that this rule would advantage shippers who already hold capacity upstream of the given points and suggests that the blocks to be commercialised be of at least 2 GWh per day and that a random draw be organized in the event of excessive demand.



Question 5:

Do you agree with the application of the general terms and conditions of GRTgaz's transport contract for any unsold capacities?

Twelve players answered this question: one gas infrastructure operator, 9 shippers and 2 associations.

❖ **Gas infrastructure operators**


GRTgaz is in favour of the application of the general terms and conditions of GRTgaz's transport contract for any unsold capacities as shippers already know the mechanism.

❖ **Shippers and associations**

Three shippers and one association state that they are in favour the application of the general terms and conditions of GRTgaz's transport contract for any unsold capacities. One shipper, however, regrets that the rules for sales in the form of OSPs for 1-4 years do not apply to all capacity commercialised within the framework of the commitments and adds that capacity should be commercialized upstream at the same time as entry capacity, including during later processes.

Roughly half of the contributors are against the application of the general terms and conditions of GRTgaz's transport contract for any unsold capacities.

Three shippers stress a high risk of non-subscription of part of the capacities released onto the market. These shippers do not want the shipping community to suffer a possible resulting increase in transmission tariffs. Two shippers and one association propose transforming any unsold capacity into releasable capacity. One shipper and one association recommend the provision of a second commercialisation round for any unsold capacity.



Question 6:

Do you have any other comments on the allocation subscription rules proposed by GRTgaz?

Seven players answered this question: 5 shippers and 2 associations.

Four shippers and one association regret that the commercialisation of upstream capacity corresponding to entry capacity released onto the market is not systematic.

Another shipper recommends the implementation of the “first come, first served” rule for any non-allocated capacity.

One shipper asks for clarification on the costs of capacity at Taisnières and notes that the costs of upstream capacity at this point are not transparent.

One shipper regrets that GRTgaz has not released any link capacity onto the market between the North and South zones.

One shipper is against the “flexible route” option having priority over the “allocation profile” option.

One association states that the timetable to roll out GDF Suez commitments is too short. Also, the conditions proposed are likely to favour solely the interests of major market players.

One association asks that the application rules of the Use-It-Or-Lose-It mechanism for allocated capacity be specified, as well as the related rules applied for capacity allocated in neighbouring countries as part of this procedure.



Question 7:

Do you agree with the timetable proposed by Elengy within the framework of the commitments?

Eight players answered this question: one gas infrastructure operator, 5 shippers and 2 associations.


❖ **Gas infrastructure operators**

Elengy is in favour of the proposed timetable. It notes that this timetable is the result of the European Commission's decision and would increase the appeal of the commercialised product.

❖ **Shippers and associations**

Three shippers agree with the proposed timetable.

Two associations and two shippers are not in favour of the timetable proposed by Elengy. Two players regret that the commercialisation times proposed are too short. One shipper adds that the duration of preferential subscriptions is too long. This shipper is concerned that the release of capacity on the Fos Cavaou LNG terminal has not been subject to priority treatment, given the supply difficulties for the South zone. One association considers that the rigidity of the process would not allow the development of competition on the French market. One shipper notes that the proposed timetable is not compatible with a transparent and non-discriminatory process.



Question 8:

Do you agree with the prioritisation criterion based on the nature of the service requested?

6 players answered this question: one gas infrastructure operator, 3 shippers and 2 associations.

❖ **Gas infrastructure operators**

Elengy states that it agrees with the prioritisation criterion based on the nature of the service requested. It recalls the balance between the coexisting “bandeau” and “continuous” services that ensures the efficiency of the operational management of a site by the operator. In view of effective subscriptions, it proposes to give priority to continuous service in order to be able to propose “bandeau” service capacity in the short term.

❖ **Shippers and associations**

Two shippers stated that they agree with the prioritisation criterion based on the nature of the service requested. According to one shipper, such a criterion is consistent with widespread commercial practices.

One shipper and two associations are not in favour of this criterion. The shipper notes that a criterion that would contribute to giving priority to continuous service could lead to a drop in operational service quality, in the event of limited volumes. One association believes that this criterion would create an additional limitation for shippers, in an allocation process that is already too inflexible.



Question 9:

Do you agree with the criterion aimed at promoting the diversification of shippers on the terminal?

Seven players answered this question: one gas infrastructure operator, 5 shippers and one association.

❖ **Gas infrastructure operators**

Elengy agrees with a diversification criterion that, at an equal priority level, would favour, for the allocation of lot B, a shipper that was not allocated lot A capacity.

❖ **Shippers and associations**

Most shippers and one association are in favour of the criterion aimed at promoting the diversification of shippers on the terminal. One player adds that this criterion would prevent any withholding of capacity and ensures that the allocation would be conducted in a non-discriminatory manner. One shipper would like this criterion to be extended to GRTgaz transmission capacity allocations. One association agrees with this criterion, provided that the allocation process remains transparent and non-discriminatory. It also stresses the management difficulties that would result from the excessive diversification of shippers active on the terminal.

One shipper is against this criterion and believes that the diversification of shippers on each terminal is not a sufficient goal. Elengy's main objective should be to satisfy shippers' requests.

Question 10:

Do you agree with the application of the current rules of capacity allocations published by Elengy to potentially unsold capacities?

Eight players answered this question: one gas infrastructure operator, 5 shippers and 2 associations.

❖ **Gas infrastructure operators**

Elengy agrees with the application of the current capacity allocation rules. The European Commission's decision does not provide for a specific system for any unsold capacity. It proposes to apply the current allocation principle to preserve clarity of its offer.

❖ **Shippers and associations**

Three shippers and one association agree with the application of the current rules of capacity allocations published by Elengy to potentially unsold capacities. One association recommends, however, that this rule should only be applied after CRE has assessed any disputes resulting from the allocation procedure.

Two shippers and one association are not in favour of the application of the current allocation rules to unsold capacity. The two shippers do not want the shipping community to be hit by a tariff increase related to any unsold capacity. One player asks CRE to adapt the regulated revenue of Elengy so that tariffs do not increase in the event of non-subscription of released capacity. One shipper would like any unsold capacity to be added to GDF Suez's releasable capacity. In the event of capacity remaining unsold following the first round, one association proposes to conduct a new allocation round at a later date. The allocation process should be more flexible. In the meantime, available capacity could be sold in the "spot" system, with priority given to new entrants on the Montoir LNG terminal.



Question 11:

Do you have any other comments on the commercialisation procedure proposed by Elengy?

Five players answered this question: 4 shippers and one association.

❖ **Shippers and associations**

One shipper would like to be informed of the conditions under which capacity at the Fos Cavaou terminal will be marketed and calls for a coordination of the capacity allocation processes on the Montoir and Fos Cavaou terminals in order to enable shippers to release capacity held at Montoir, should they obtain capacity at Cavaou.

Another shipper notes that the commercialisation proposed by Elengy is not conducive to increased competition on the French gas market and renews its request to replace regasification capacity transfers with a long-term “gas release” programme.

One player notes that the products proposed as part of the commercialisation procedure are insufficiently flexible and diversified to enable increased competition on the market.

One association has doubts on the relevance of the proposed timetable and stresses the difficulty for a new entrant to develop an overall strategy, due to the complex nature of the commercialisation procedure proposed by Elengy.