

Deliberation

Deliberation of the French Energy Regulatory Commission (CRE) of 29 May 2012 regarding short-term capacity allocation rules marketed at the Fos Cavaou LNG terminal for the first quarter of 2013.

Present: Philippe de LADOUCETTE, chairman, Frédéric GONAND, Jean-Christophe LE DUGOU and Michel THIOLLIERE, commissioners.

This decision is taken in accordance with article L. 134-2 of the French Energy Code.

Having discussed the matter, the French Energy Regulatory Commission (CRE) decides as follows:

1. Context

Fosmax LNG, 71.97 % held by Elengy, subsidiary of GDF Suez and 28.03 % by Total Gaz Electricité Holding France, subsidiary of Total, markets the capacities of the Fos Cavaou Liquefied Natural Gas (LNG) terminal that reach 8.25 Gm³ per year.

The deliberation of the CRE of 15 December 2003¹ recommends that at least 10% of the capacities at the terminal, corresponding to 0.825 bcm/y, in other words around ten unloading slots per year, should be reserved for short-term contracts.

Furthermore, the short-term capacities allocation rules for the 2011 and 2012 were fixed by the deliberation of the CRE of 7 October 2010². The tariffs for using LNG terminals are intended to enter into force on 1 April 2013. The allocation rules for short-term capacities available from this date shall be set on a date later to that of the CRE's deliberation on tariffs.

It is in this context that Fosmax LNG proposed to the CRE on 21 May 2012 the implementation of the marketing of short-term capacities specific to the first quarter of 2013, the rules of which are set out hereafter and attached as appendix to this deliberation.

2. Proposal of Fosmax LNG

The sale of the capacities, subject of this deliberation, led to a preliminary information point during the first LNG concertation meeting of 26 April 2012 as well as on the Fosmax website on 25 May 2012.

2.1. The product offered for sale

Fosmax LNG proposes marketing 2.42 TWh³ of capacities, in other words a quarter of the annual short-term capacity of the terminal over the period of 1 January 2013 to 31 March 2013, the last quarter where the currently in force tariff applies. The capacity shall be spread evenly over the period. The nature of the service being marketed, continuous or uniform, will depend on the profile of the subscriber at the Fos Cavaou terminal.

¹ Deliberation of the CRE on the protocol between Gaz de France and TOTAL with regard to their stakes in CFM and GSO.

² Deliberation of the French Energy Regulatory Commission (CRE) of 7 October 2010 addressing short-term capacity allocation rules marketed at the Fos Cavaou LNG terminal.

³ In other words equivalent to 1 to 6 unloading windows for ships whose size may vary between 60 Gm³ LNG to 270 Gm³ LNG.

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2.2. Proposed allocation rules

Fosmax is proposing to market its capacities on a "first come - first served" basis, while introducing a first reservation window of 18 days aimed at giving shippers interested in this capacity the time required to prepare their subscription decision.

Fosmax LNG is therefore proposing that the marketing period starts on 11 June 2012 at 12.00 (Paris time). Applications for capacities received between this date and 29 June 2012 at 12.00 (Paris time) shall be deemed to have been received simultaneously. Where the volume of requests exceeds the offer of capacities, requests with the greater volumes shall be allocated with priority. Where there are requests with the same degree of priority, a draw shall be made by a judicial officer.

The remaining capacities available for marketing beyond 29 June 2012 shall be allocated on a "first come - first served" basis.

3. CRE analysis

Fosmax's proposal to arrange the sale of its short-term capacities over two periods, from 1 January to 31 March and from 1 April to 31 December, is intended to offer the stakeholders sufficient visibility with regard to the applicable tariff framework.

The 18-day reserve period proposed by Fosmax LNG ensures those shippers already present at the LNG terminals are not given an advantage. Furthermore, Fosmax LNG has been informing the market stakeholders of this marketing project since April 2012.

In addition, the marketing method proposed by Fosmax LNG, based on an over-the-counter sale, then the "first come - first served" basis, is similar to the process approved by the CRE in 2010 for the annual capacities relating to 2011 and 2012. This mechanism is well suited to the restricted volumes affected by this marketing phase and the inherent flexibility of the liquified natural gas market.

Where requests for capacity exceed demand, the criterion where the greatest priority is allocated to requests for the greatest volume is intended to maximise the capacities marketed at the terminal and does not require any further comment by the CRE.

4. CRE decision

The CRE approves the allocation rules for short-term capacities marketed at the Fos Cavaou LNG terminal for the first quarter of 2013 proposed by Fosmax LNG on 21 May 2012.

In accordance with Article L. 134-2 of the French energy code, this deliberation will be published in the *Journal Officiel de la République française*.

Paris, 29 May 2012

For the French Energy Regulatory Commission
The Chairman,

Philippe de LADOUCKETTE