

Brussels, 30<sup>th</sup> of September 2024

## **CONSULTATION PUBLIQUE N°2024-08**

### **Consultation publique du 3 juillet 2024 sur une proposition de règles prudentielles pouvant s'appliquer aux fournisseurs d'électricité et de gaz naturel**

#### **Public consultation of 3 July 2024 on a proposal for prudential rules that could apply to electricity and natural gas suppliers**

First of all, Equinor thanks the French energy regulator CRE for the opportunity to express its view on the potential regulation for prudential rules by responding to this public consultation.

Equinor is a Norwegian-based broad energy company and Europe's largest natural gas supplier, with an annual equity production of natural gas of around 80 bcm (~ 880 TWh). We are already one of the world's most CO<sub>2</sub>-efficient producers of oil and gas and leverage strong synergies between oil, gas, renewables, carbon capture and hydrogen.

For decades, Equinor has been a significant contributor to the energy security of supply in France by supplying 12-18 bcm of natural gas per year via Dunkerque, Taisnières and PEG. Our financial stability and risk management capacities are recognized by the global financial community.

#### **General Observations**

As an introduction, we would like to share some general observations regarding the potential regulation of introduction of coverage obligations in the French power and natural gas market ("the Initiative") along the following lines:

- Commodity markets and equity production
- Confidentiality issues
- Financial robustness
- Unintentional side effects / market risks

#### *Commodity markets and equity production*

The EU Directive 2019/944 modified on 13/6/2024 gives Member States with a tool to supervise the procurement strategies of electricity suppliers, especially when these suppliers offer multi-annual fixed prices. The objective of the directive is to assure resilient electricity suppliers during periods of strong market price variations in particular in the retail (mass-) market.

In chapter 2.1.2 of the consultation, it is stated that the number of bankruptcies and impact on market were limited. Moreover, the Initiative is clearly driven by the electricity market (e.g. references to ARENH and PPA's, electricity mentioned 32 times and gas 14 times).

Furthermore, and if not mistaken, all the negative incidents observed in the French market during the energy crisis occurred in the mass-market segment.

Current legislation already allows the relevant authorities (DGEC, CRE) to request additional information from natural gas license holders if such a supplier cannot prove its technical, economic and financial capacity to fulfil its obligations.

A supplier like Equinor, with its own production of natural gas (“equity gas”) can meet its supply obligation by its production portfolio. This provides another risk management tool (natural hedge) to its risk management tool-box.

Based on this, Equinor believes that the natural gas market should not be part of this Initiative and that the Initiative should focus on the mass-market in the power sector only.

#### *Confidentiality issues*

Much of the information requested in the consultation is highly confidential and could potentially distort the market in case of leakage. Companies listed in a stock exchange will most probably face confidentiality constraints with regards to the communication of risk strategies, its mitigation, internal transfer pricing and other related information.

In this regard, Equinor recommends limiting the requests to information not subject to such confidentiality constraints. Risk management strategies could be explained by the relevant risk manager to the CRE in dedicated company-level meetings.

#### *Financial robustness*

Regarding the assessment of the supplier’s financial robustness of a, the relevant authority can always request additional information of any doubts according to today’s legislation. Therefore, we do not see any need for additional requirements, at least not for suppliers holding a certain level of an external rating such as Moody’s or Standard & Poor. As a result, these suppliers should be exempt from any further reporting or coverage obligations.

Furthermore, we would like to accentuate that energy suppliers in Europe already undergo strict reporting obligations under the REMIT and MIFID regulations.

#### *Unintentional side effects / market risk*

Finally, in conclusion, we would like to express our concern that the complexity and stringent requirements of the proposed Initiative might lead to unintended consequences such as

- a risk of over-hedging if end-consumer (e.g. industry) volume assumptions are too optimistic;
- increased costs for end-users to cover additional hedging charges;
- reduced fixed price offers, to limit reporting obligations and related costs.

Overall, we believe that the Initiative, if implemented as proposed, could negatively impact the attractiveness of the French market for existing and new energy suppliers.

## Feedback on Questions

**Question 1 :** Etes-vous d'accord avec les principes généraux exposés par la CRE ?

Do you agree with the general principles set out by the CRE?

Equinor fully understands the intension of CRE to implement, in line with the modified EU Directive 2019/944, measures to assure the resilience of energy suppliers, in particular during times of increased price volatilities.

1<sup>st</sup> principle:

As pointed out in the introduction, Equinor believes, that the implementation of potential coverage obligations to hedge fix prices, should be limited to the mass-market segment of the electricity market and this on portfolio and not on individual customer level. Any reporting obligation should be ex-ante, not ex-post, except in cases of supplier default. Changes in the production schedules of industrial customers might lead to over-coverage adding financial risks to the suppliers portfolio rather than taking them away. For this reason, the industrial customer segment should be excluded from the scope of the proposed regulation.

2<sup>nd</sup> principle

As also mentioned in the introduction, the financial robustness of energy suppliers is assessed during the issuing process of the supply license and re-assessed yearly by the relevant authority (DGEC). Therefore, Equinor sees no reason to introduce additional obligations.

If the CRE intends to introduce a dedicated financial rating for each supplier in the French market, Equinor recommends exempting suppliers with a public rating (Standard & Poor, Moody's ...) above a certain threshold.

3<sup>rd</sup> principle

Any prudent and reasonable energy supplier has its dedicated confidential (!) risk management strategy in place, in particular those listed on stock exchanges. The confidential nature of these strategies makes it extremely difficult to communicate these externally. The leakage of such confidential information related to large market players may potentially disrupt the market as other players will adapt to it.

Therefore, any obligation of suppliers to communicate information of their risk management strategy should be limited to general, non-confidential information still assuring the CRE of the financial resilience of the supplier being able to manager their exposures.

**Question 2 :** Identifiez-vous d'autres outils prudentiels que la CRE devrait mobiliser pour mieux répondre aux spécificités du marché français ?

Do you identify other prudential tools that the CRE should mobilize to better respond to the specificities of the French market?

No, and Equinor believes that the prudential coverage tools should be applied on the mass-market for electricity and that suppliers holding a certain minimum rating being able to show that a risk management strategy is in place (without revealing it) should be exempted of any further obligation.

**Question 3 :** Sur la différenciation entre les types de consommateurs, êtes-vous d'accord avec l'analyse de la CRE ?

On the differentiation between the types of consumers, do you agree with the CRE analysis?

Equinor agrees with the segmentation but believes that the regulation should apply only on the mass-market segment for electricity.

**Question 4 :** Etes-vous d'accord avec la définition des offres entrant dans le périmètre de contrôle proposée par la CRE ?

Do you agree with the definition of offers falling within the scope of control proposed by the CRE?

Equinor agrees with the definition of offers in scope, being "fixed price" and "floating price with option to fix" offers.

**Question 5 :** Etes-vous d'accord avec la proposition de la CRE, à savoir la mise en place d'un double contrôle portant à la fois sur un contrôle ex-post et un contrôle prévisionnel des obligations de couverture ?

Do you agree with the CRE's proposal, namely the establishment of a double control covering both an ex-post control and a forecast control of risk coverage obligations?

Equinor agrees with a yearly ex ante control applied only on the mass-market segment for electricity.

Ex post controls should be limited to suppliers in default.

**Question 6 :** Un contrôle au pas de temps annuel vous semble-t-il suffisant ? Un contrôle semestriel pour couvrir chaque saison serait-il davantage approprié ?

Does an annual control seem sufficient to you? Would a semestrial control to cover each season be more appropriate?

Equinor believes that an annual control system is sufficient.

**Question 7 :** Partagez-vous l'analyse de la CRE concernant les périodes d'évaluation des couvertures ?

Do you share the CRE's analysis regarding the evaluation periods of hedging obligations?

The periods proposed by CRE correspond to forward products having a certain liquidity in the electricity market.

**Question 8 :** Partagez-vous l'analyse de la CRE concernant le dimensionnement des obligations minimales de couverture ?

Do you share the CRE's analysis regarding the sizing of minimum coverage obligations?

Equinor does not agree to the minimum coverage obligation proposed by the CRE. The decision which and how much volumes are hedged at which price is part of the risk management strategy of each supplier and should be on their sole discretion.

Furthermore, and as pointed out in the introduction and in the response to question 1, a minimum coverage obligation in the industrial customer segment might lead to over-coverage adding risks rather than reducing them.

**Question 9 :** En vous appuyant sur des analyses quantitatives étayées dans la mesure du possible, partagez-vous la prise en compte du risque d'attrition telle que proposée par la CRE ?

By relying on quantitative analyses supported as far as possible, do you share the consideration of the risk of attrition as proposed by the CRE?

Please refer to question 8.

**Question 10 :** Partagez-vous l'analyse de la CRE sur les prérequis nécessaires pour chaque moyen de couverture explicité ?

Do you share the CRE's analysis of the necessary prerequisites for each means of coverage explained?

As pointed out before, risk management strategies are highly confidential, and each supplier should execute its strategy based on prudent and reasonable assumptions. Any to be shared information should be limited to the minimum possible, respecting all confidentiality obligations of the suppliers.

Furthermore, we perceive this chapter eyes predominantly the electricity market. Equinor is not active in the French electricity market.

**Question 11 :** Pensez-vous pertinent d'adapter les niveaux d'obligation pour couvrir les risques inhérents à chaque produit de couverture ?

Do you think it is relevant to adapt the obligation levels to cover the risks inherent to each hedging product?

With regards to the obligation levels, Equinor would like to point to European regulation already in place, such as REMIT and MIFID. Implementing additional reporting obligations bears the risk of over-regulation of an already heavily regulated market.

Please refer also to question 10.

**Question 12 :** Estimez-vous utile de prévoir la possibilité d'appliquer un taux d'abattement graduel, plutôt que de rejeter les couvertures offrant un degré de fiabilité insatisfaisant ?

Do you consider it useful to provide for the possibility of applying a gradual reduction rate, rather than rejecting coverage offering an unsatisfactory degree of reliability?

Equinor believes that this concern is already addressed by the supply licensing process.

**Question 13 :** Identifiez-vous d'autres types de produits susceptibles de remplir l'obligation de couverture ?

Do you identify other types of products likely to fulfil the coverage obligation?

Non

**Question 14 :** Quels indicateurs financiers sont suivis régulièrement au sein de votre société pour évaluer la capacité à résister aux aléas de votre activité ?

What financial indicators are regularly monitored within your company to assess the ability to withstand the hazards of your business?

In addition to internal, confidential risk management, Equinor is rated by external agencies such as Standard & Poor or Moody's.

**Question 15 :** Les éléments comptables et financiers qui seraient collectés par la CRE permettent-ils à votre sens d'évaluer correctement la capacité financière de la société à résister aux aléas ?

Do the accounting and financial elements that would be collected by the CRE allow in your view to correctly assess the financial capacity of the company to withstand uncertainties?

Given the external rating of Equinor ASA and the yearly license reporting to DGEC, Equinor sees no need to provide additional financial information to CRE.

**Question 16 :** La liste des risques spécifiques à l'activité de fourniture proposée par la CRE vous paraît-elle exhaustive ?

Does the list of risks specific to the supply activity proposed by the CRE seem exhaustive to you?

As stated before, having the industrial customer segment in scope can lead to over-coverage and adding risk to the system rather than taking risk away.

Such a complex and stringent regulation as proposed in this public consultation risks the increase of end-consumer prices as suppliers have to cover additional costs. Strong reporting obligations on the coverage levels might lead to reduced fix-price offers in order to reduce internal workload.

Overall, the French market might lose on attractiveness for active suppliers and potential new entrants.

**Question 17 :** Partagez-vous les mesures organisationnelles (gestion des ressources humaines et gouvernance), proposées par la CRE ? Etes-vous d'accord avec les principes généraux exposés par la CRE

Do you share the organizational measures (human resources management and governance) proposed by the CRE?  
Do you agree with the general principles set out by the CRE?

Equinor understands that the supply of power and natural gas is a non-regulated activity, hence the CRE should not interfere into these business activities when it comes to risk management, human resources or the overall organization of the company.

**Christoph Schäfer**

Advisor Policy & Regulatory Affairs, MMP GEA PRA FPAE

Equinor

+32 475 856154

[chscha@equinor.com](mailto:chscha@equinor.com)

Office address: Equinor Energy Belgium NV, Avenue de Cortenbergh 120, 1000 Brussels, Belgium