

CRE's communication of 16th, 2008 on transaction monitoring terms for the French wholesale electricity and gas markets

Attending the meeting: Mr. Philippe de LADOUCKETTE, President, Mr. Maurice MEDA, Vice-President, Mr. Michel LAPEYRE, Vice-President, Mr. Jean-Paul AGHETTI, Mr. Eric DYEUVRE, Mr. Pascal LOROT et Mr. Emmanuel RODRIGUEZ, Commissioners.

The present communication aims to explain the principles adopted by CRE for the establishment of transaction monitoring in wholesale energy markets, and to consult companies interested in commenting practical arrangements of such surveillance.

1. Stakes of wholesale market monitoring

The aim of market monitoring is to detect any anticompetitive behaviour. If the market is monitored, it becomes possible to check that dominant market players do not abuse their position, and that transactions conducted in the market do not result in manipulation of the market price.

Indeed, wholesale market prices set:

- the incomes from sales by market players who control physical electricity and gas (generation/production, long term import contracts);
- the sourcing cost of alternative suppliers without such physical assets.

By giving confidence in the market, market monitoring encourages the entry of new players in the trading segment and an increase in liquidity. Market monitoring also increases security of supply, as confidence in prices is crucial for investors. Therefore, market monitoring is consistent with CRE's strategy of promoting the ongoing development of the French wholesale electricity and gas markets.

For market monitoring to be effective, it must be possible, when necessary, to analyse the global behaviour of market players. Therefore, monitoring must cover all transactions: those concluded through brokerage services and those concluded on a purely bilateral basis.

CRE will involve market players in its establishment of market monitoring processes.

2. Legal framework

French framework

Pursuant to article 28 of the French energy law n° 2000-108 of 02.10.2000, as amended by the French energy law of 07.12.2006, the French Energy Regulatory Commission (CRE) "*monitors electricity and natural gas transactions between suppliers, traders, and generators, transactions conducted in organised markets, and cross-border transactions. It checks that suppliers, traders and generators' offers are consistent with their technical and economic constraints.*"

Pursuant to article 33 of the same law, “to fulfil its missions, the French Energy Regulatory Commission is authorised to collect all necessary information from [...] companies trading in the electricity or natural gas market”.

In accordance with its monitoring duties, CRE has already started the systematic collection of data from electricity producers, Powernext and system operators on a monthly basis.

However, CRE has not yet been provided with OTC transaction data from companies intervening in French wholesale electricity and natural gas markets.

European framework

In line with the draft directives in the “3rd package” establishing a new European energy policy the European commission proposed a set of measures relating to market transparency. These measures are intended to enhance the confidence of players in the wholesale markets as well as promoting their development. These measures also include transaction record keeping duties.

The European commission authorised, through CESR and ERGEG, financial and energy market regulators to advise on guidelines for the implementation of such measures. As part of ERGEG, CRE is contributing to this work.

As part of the implementation of its mission, CRE has now been empowered under French law to set up monitoring of transactions concluded on French wholesale markets. Any proposal made at European level regarding market monitoring will be taken into account by CRE.

3. CRE’s approach

In order to fulfil its monitoring mission, CRE must have access to transactions concluded on French wholesale electricity and gas markets.

Since 2007, CRE has entered into discussions, with various organisations representing market players on proper processes which will allow CRE to have effective access to transaction data whilst minimising the workload of the companies concerned. On that basis, CRE has adopted a two-step approach.

Step 1

As a first step, CRE wants to be able to request data on some of the transactions concluded after 1st January 2007.

For that purpose, CRE has defined the practical arrangements which will allow access to such information. These arrangements are set out later in this document. CRE invites companies interested in commenting on these arrangements to submit them.

After considering these comments, CRE will finalise the arrangements and then notify the companies concerned by post.

Once the abovementioned arrangements are finally agreed, CRE would like market players to be aware that a first data request will then be submitted in order to analyse the performance of the French wholesale markets in 2007. This request will also test information exchange procedures.

Given the increase of electricity prices in 2007 and the expiration of the first *gas release* contracts in 2008, the first request will focus on:

- for electricity: transactions concluded in 2007 on yearly products for delivery in 2008 and 2009, baseload and peakload (products “Y+1” or “Cal08”);
- for gas: transactions concluded in 2007 on seasonal and yearly products for delivery in 2008 and 2009, baseload and peakload (calendar year and gas year).

Information must be received by CRE 5 weeks after the receipt of the request at the latest.

It should be noted that CRE is subject by article 35 of the French energy law of 02.10.2000 to strict confidentiality over all information collected as part of its remit. Consequently, CRE will not publish any commercially sensitive information related to transaction data gathered in the context of this request.

Step 2

Based on feedback received, CRE will liaise with market players and consider the possible setting up of systematic procedures for transaction data gathering. A final decision will be made by the end of 2008.

4. Consultation process

CRE invites all interested parties to send their comments on the data gathering procedures described in the following section of this document, and in its appendix.

Contributions must be received by CRE by 9 May 2008 at the latest and can be submitted:

- by e-mail to the following address: webmestre@cre.fr;
- via CRE website (www.cre.fr), under the “Documents / Public consultations” section, using the “Contribute” function (electronic documents can be sent);
- by post to:

Commission de régulation de l'énergie
DMSP
2, rue du Quatre-Septembre
75084 PARIS Cedex 02
France

The confidentiality of contributions will be guaranteed if so requested by the contributor.

Produced in Paris, 16th April 2008,

For the Commission de régulation de l'énergie,
The chairman,

Philippe de LADOUCETTE

Information gathering procedures applicable to phase 1 (subject to consultation)

Scope

The scope of Phase 1 is limited to physical transactions concluded on French wholesale electricity and gas markets.

Record keeping

Companies active in French wholesale electricity and gas markets are required to keep information related to all their transactions, whether they were concluded via an intermediary or not, for a period of five years.

Mandate given to intermediaries

CRE will afford market players covered by these requests the opportunity of transmitting data through intermediaries so as to avoid increased workload.

CRE will encourage participants to ensure brokers of whom they are clients to keep records of transaction data and to provide CRE with them should it be requested. The five brokerage companies authorised to provide CRE with data from their clients are: ICAP, Spectron, Tullett Prebon, TFS and GFI.

In addition, CRE will ensure that it will obtain transaction data from exchanges, from EDF should these be transactions conducted through VPP, from system operators (RTE, ERDF, GRTgaz, TIGF and GrDF) for transactions dealing with purchases of losses. Consequently, market players will not have to transmit such information to CRE.

Data format

The attached appendix set out the format for data records.

Security and data transmission

Data will be transmitted to CRE by e-mail.

CRE will set up specific procedures for secure data transmission in conjunction with companies who require this. The encryption process used will comply with approved French state procedures. The appendix attached highlights these security procedures.

Deadline for transmission to CRE

Companies covered by these proposals must be capable of transmitting the data required, in the appropriate format, to CRE, within 3 weeks of the receipt of each such request.