

# Summary of contributions

Paris, September 16 2010

## Summary of the contributions to the French Energy Regulatory Commission's public consultation dated the 3<sup>rd</sup> of May 2010 on the enforcement of article 7 of Regulation (EC) n° 1228/2003 dated 26<sup>th</sup> of June 2003 and on conditions for access to the French public electricity transmission grid for new exempt interconnections

### 1. Introduction

On the 3<sup>rd</sup> of May 2010, the French Energy Regulatory Commission (CRE) published a public consultation document on the enforcement of article 7 of Regulation (EC) n° 1228/2003 of the European Parliament and the Council dated 26<sup>th</sup> of June 2003 and the conditions for access to the network for cross-border exchanges in electricity (subsequently referred to as "*Regulation 1228/2003*") and the terms and conditions for access to the French public electricity transmission grid for new exempt interconnections.

Eight contributions were received, one of which was from an investor in merchant lines (ImeraPower), one from the public transmission system operator (RTE) and six from electricity producers/traders including Alpiq, the Compagnie Nationale du Rhône (CNR), Electricité de France (EDF), EDF Energy and Edison.

In the next part of this document, these contributions are summed up, question by question, and preceded by a short summary of CRE's proposal. The consultation document and the contributions whose authors allowed their publication can be downloaded on CRE's website.

### 2. Summary of the contributions

#### 2.1 On the principles

##### Part 1.2 of the public consultation :

Three main principles guided CRE when drawing up the proposal:

- The protection of the interests of end users and other network users by ensuring them a positive net economic value;
- The creation of a stable, transparent and non-discriminatory regulatory framework;
- The promotion of integration of European electricity markets, allowing new exempted interconnexions to contribute positively.

**Question 1:** Do you agree with the three principles that guided CRE when drawing up this proposal. Which other principles would seem relevant to you and should be taken into account?

Seven of the eight contributors (CNR, EDF, EDF Energy, Edison, ImeraPower, RTE and another market operator) expressed their agreement with the three principles stated by the CRE in the public consultation document. RTE particularly supported the criterion of net economic profits for the community, taking both positive and negative externalities into account. EDF specified that the criterion of non-discrimination between regulated and exempt interconnections should not only apply in the operating phase but should be extended to the connection phase. Two contributors wanted to add a fourth criterion:

- A "light touch" regulation of the exempt interconnections, especially when these are likely to come

- into competition with future or existing interconnections (ImeraPower),
- The increase in competition in terms of infrastructure (EDF Energy).

Within this context, Alpiq expressed its wish for the specification of the procedure for consultation between the regulators concerned by an interconnection line. Alpiq added that, in its opinion, in accordance with preamble 7 of Regulation 1228/2003, article 7 of the same Regulation (from which the existence of new exempt interconnections is derived) is applicable to a new interconnection between France and Switzerland. It pointed out that this article also provides for the granting of an exemption in the case of a significant increase in the capacity of an existing interconnection.

## 2.2. On the enforcement of article 7 of EU Regulation 1228/2003

### Part 2.1.2 of the public consultation:

Article 7 of Regulation (EC) 1228/2003 gives six cumulative conditions for an exemption to be granted.

Condition b concerns risks related to the project:

“b) the level of risk attached to the investment is such that the investment would not take place unless an exemption is granted”

This condition seems to be met as long as there is no similar<sup>1</sup> regulated project.

If an exemption is granted, CRE will ensure that its extent is commensurate with the risk borne by the investor. For example, CRE could grant a partial exemption from article 6.6 of Regulation (EC) 122/2003<sup>2</sup> by imposing that a part of the revenues be used to increase interconnection capacity or lessen charges to be covered by the grid access tariff.

**Question 2:** Do you agree with the estimation method proposed for the condition concerning the risk of the project?

CNR and another market operator expressed their agreement with the principle for estimating the condition concerning the risk proposed by CRE.

RTE was also in agreement but on condition that the definition of an existing regulated interconnection project should include any project jointly being studied by RTE and the transmission system operators concerned, that the definition of a similar interconnection project be specified by making greater reference to the "service provided" than to the deadlines for setting up or to the proposed capacity, and that the deadlines announced by the exemption requestor should be sent to the Ministry for Energy for an opinion on how realistic they are. RTE recognises the importance of assessing the net cost/benefit balance of any interconnection project.

For Alpiq, the items of information on which a private investor can rely in order to find out about similar regulated interconnection projects should be clarified.

For its part, ImeraPower did not consider that the existence of a similar regulated project prevented the risk condition from being met. For ImeraPower, the market has been liberalised and it is not up to CRE, but rather the market, to decide which project will be carried out. RTE, on the other hand, stressed that the role of exempt interconnections is not to compete with regulated projects.

ImeraPower emphasised that an investment in a new exempt interconnection is subject to many risks, the combination of which could have considerable results. For ImeraPower, an exemption is above all necessary to reduce the regulatory risk, notably to allow for the allocation of pluriannual interconnection capacities. This type of capacity is not mentioned in the guidelines appended to Regulation 1228/2003. ImeraPower observed that the regulations to which the operator of a new exempt interconnection is subject are liable to change, as has already been the case with the guidelines mentioned above.

<sup>1</sup> Similar particularly in terms of delays needed to carry out the project, of capacity constructed and of net economic value for end-users.

<sup>2</sup> This article concerns the use of revenues from the allocation of interconnection.

Edison expressed its agreement with the principle that the extent of the exemption should be scaled according to the risk carried by the investor. It specified that this principle should be expressed solely in terms of exempt capacity and duration of the exemption.

In relation to this question, EDF Energy and Edison highlighted that any sharing or re-investment of revenues would expose the investor to market risk in an asymmetric way, which seemed undesirable to them. EDF Energy added that such conditions would be a disincentive to investment and would increase the cost of financing.

Finally, ImeraPower stressed that the regulatory framework should be stable and predictable and that, in particular, the duration of the exemption granted should be clearly specified.

Part 2.1.3 of the public consultation:

Condition *f* concerns the impact of the exemption:

*“f) the exemption is not to the detriment of competition or the effective functioning of the internal electricity market, or the efficient functioning of the regulated system to which the interconnector is linked”*

The analysis of the impact of the new interconnector on competition and on the effective functioning of the internal electricity market should take into account the rules for allocation and management of interconnection capacity as well as the identity of the investor and its shareholders.

**Question 3:** Do you agree with the estimation method proposed for the condition on detriment to competition and the effective functioning of the internal electricity market?

CNR declared that it agreed with the estimation method proposed by CRE.

Edison agreed that the exemption should not be to the detriment of the effective functioning of the internal electricity market and the effective functioning of the regulated network.

EDF Energy and ImeraPower thought that, in principle, a new connection would encourage the development of competition, as long as capacity is offered to third parties. EDF Energy added that the use of the interconnection capacity should be maximised. For a market operator, any increase in interconnection capacity increases competition, but the positive impact is improved if the dominant players do not hold, or hold few, priority transmission rights.

For EDF and another market operator, CRE's control of allocation methods (EDF) or monitoring of the use of capacities (the other market operator) would be sufficient to guarantee that the exemption would not be detrimental to the internal market or competition. On the other hand, RTE considered that the interconnection capacity contributed by a new exempt interconnection should be managed in such a way that it is not detrimental to the functioning of the internal electricity market.

EDF Energy also highlighted the importance of being able to allocate long-term capacities for the financing of an exempt interconnection project.

Finally, ImeraPower stressed that the contribution in terms of competition of a new interconnection joining two already competitive markets might not be measurable, and proposed to replace the criterion with *“Is there already adequate competition in the market concerned and will that position remain so as a result of the development of the new project?”*.

ImeraPower indicated that an investor might find it difficult to analyse the impact of a new interconnection on the markets affected as it does not have the necessary data on the market players. It suggested transferring this responsibility to CRE. EDF supported ImeraPower's position on this last point, and proposed that CRE consult the Competition Authority in cases where it intends to base its refusal on a negative impact on the market.

In addition, ImeraPower considered it appropriate that any significant change in the distribution of shares be notified to CRE. For EDF, the identity of the shareholders or the investor is not important if the competitive nature of allocation methods is controlled.

Part 2.1.3 of the public consultation:

The analysis of the impact on the regulated system (condition f) should take into account both positive and negative externalities of the new exempted interconnection.

CRE could refuse an exemption if it considers that the new interconnection makes network users bear a financial risk or cost that is not proportionate to the expected benefits of market integration.

The application for exemption must include the technical and financial proposal, presenting the results of the connection study, carried out by the transmission system operator. This document cannot be over a month old. CRE can request that the transmission system operator provides additional information.

**Question 4:** Do you agree with the estimation method proposed for the condition against detriment to the regulated system?

CNR and another market operator agreed with the estimation method proposed by CRE. Nevertheless, the other market operator specified that the conditions for access to the interconnection capacity (firmness, tariffs) must be taken into account in the estimation of this condition. ImeraPower said that it generally agreed with the proposal.

Edison agreed with the principle that the exemption should not be detrimental to competition or the effective functioning of the regulated network. EDF Energy also agreed, as long as the detrimental nature of the exemption can be demonstrated. Nevertheless, it indicated that the allocation of long-term products would not be sufficient to refuse a request for exemption.

For RTE, the investor is the legitimate entity capable of assessing the benefits associated with the provision of supplementary capacity between two markets, but the technical and economic impact on the interconnected regulated systems comes within RTE's field of expertise, and it should be asked for an assessment. ImeraPower agreed with this last point. RTE added that CRE should specify the framework for such a study.

For RTE, the methods used for this assessment should be similar to those used by the transmission system operators for the regulated interconnections. ImeraPower asked CRE to make sure that these methods are transparent and clear, fearing that the criterion of non-interference with the network's users might be used by a network operator or producer to get a project cancelled in its own interest.

In addition, RTE asked for clarification of the procedure triggering the involvement of the network operator and specified that it is only able to analyse the impact on the French network.

Related to this question, EDF asked for an extension, to at least two months, of the time limit proposed by CRE between obtaining the technical and financial connection proposal and submitting the exemption request (reminder: CRE proposed one month). Even though it agreed with the advantages of a maximum time limit, it wished to allow the investor more time for integrating the elements of the technical and financial proposal into its business plan.

RTE stressed how important it is that the physical flows on a new exempt interconnection be close to commercial flows and that a direct current line would be able to fulfil this function. RTE added that it might be difficult to determine the increase in commercial capacity in the case of an alternating current line. However, this could be made easier by installing a mechanism for regulating flows of power.

For ImeraPower, an HVDC VSC<sup>3</sup> cable would be the most probable technology for a new exempt interconnection. Imera indicated that this type of technology could provide auxiliary services.

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<sup>3</sup> High Voltage Direct Current Voltage Source Converter

Part 2.1.5 of the public consultation:

Article 7 of Regulation (EC) 1228/2003 provides, in its first paragraph, the possibility to exempt from article 23.2.a of Directive 2003/54 (approval power of the regulator).

In most cases, such an exemption will not be granted, and CRE will keep its approval power.

**Question 5:** Do you think it is relevant for CRE to maintain its power to approve rules for allocation and management of interconnection capacity?

EDF Energy, Edison, RTE and another market operator thought that it is appropriate for CRE to maintain its power to approve the rules for interconnection capacity management and allocation to third parties. CNR specified that it agreed, on condition that priority capacities may be reserved for the project holder(s).

ImeraPower expressed reservations on this question, fearing a retrospective regulation that would be detrimental to the visibility of the investors and the capacity holders. Nevertheless, it considered that the management and allocation rules should be transparent, non-discriminatory and that they should prevent capacity hoarding, and agreed with the principles proposed by CRE. But, for ImeraPower, the regulator should only set the general regulatory framework for these rules. It specified that the operator of a new exempt interconnection should voluntarily introduce these principles into the allocation and management rules.

Finally, ImeraPower announced that it intends to apply the *Use-It-Or-Lose-It* method and facilitate a secondary market in its own projects. For the projected interconnection, it intends to apply rules close to those currently in force on the IFA, whilst increasing the effectiveness and flexibility wherever possible.

Part 2.1.5 of the public consultation:

In cases where an exemption from third party access is not granted, the rules for allocating and managing capacity on a new exempt interconnector must comply with the same principles as the rules applied on regulated interconnectors (transparency, maximisation of capacity made available to market players, optimisation of the use of interconnection capacity, non-discriminatory third-party access, organisation of a secondary market).

**Question 6:** Do you think it is relevant that rules for allocating and managing capacity should be based on the same principles as for a regulated interconnector, except in the case where an exemption to Article 20 of Directive 2003/54/EC is granted? If yes, do you agree with the principles stated?

EDF Energy, Edison, RTE and another market operator declared that they were in favour of the harmonisation of capacity management and allocation rules. However, EDF Energy and another operator pointed out that some differences should be tolerated, due to the specific features of the interconnected markets (EDF Energy) or the different objectives an exempt and regulated interconnection have (the other market operator).

CNR is also in favour of the harmonisation of rules, on condition that priority capacities can be reserved for the project holders(s). For Edison, such capacities should be subject to a *Use-It-Or-Sell-It* mechanism, according to which unused capacities would be directly managed and allocated by the transmission system operators. Edison pointed out that such a method is compatible with market coupling.

EDF Energy and Imera expressed their agreement with the principles listed by CRE for the capacity management and allocation mechanisms, as did CNR, still on condition that priority capacities may be reserved for the project's manager(s).

RTE stressed that the management and allocation mechanisms adopted should, when necessary, be compatible with market coupling.

Finally, a market operator indicated that, in the case of a new exempt interconnection project, it is important that pluriannual capacities may be allocated, in order to reduce the risk borne by the investor. For EDF,

securing all or part of the investment by means of an "open season" mechanism could make it easier to invest in this type of infrastructure.

Part 2.1.6 of the public consultation:

CRE suggests an indicative list of documents to be included in an exemption application:

- i)* Analysis of the relevant markets ;
- ii)* Measures advocated to ensure that a dominant player does not increase his market power ;
- iii)* An analysis of the social welfare generated by the interconnection and of the profitability of the project for the investor ;
- iv)* An explanation of the chosen capacity ;
- v)* A detailed business plan ;
- vi)* A study on the impact of the methods for allocation and management of interconnection capacity ;
- vii)* The technical and financial proposal ;
- viii)* A description of how the project will be financed ;
- ix)* A description of the investor's shareholding ;
- x)* A detailed process for communicating data to CRE ;
- xi)* A technical description of the project ;
- xii)* A description of the different stages of the project.

**Question 7:** Do you think that the list of documents to be provided in an exemption application is relevant (part 2.1.6 of the public consultation)?

CNR, EDF Energy, Edison and another market operator thought that the list of documents proposed by CRE was relevant. ImeraPower also said it was generally in agreement with the proposal.

However, ImeraPower and a market operator pointed out that the cost of the analyses requested should be measured against their importance for the analysis of the request. ImeraPower added that the applicant should be able to use public information to provide these documents.

In the case of document *ii)*, a market operator wondered whether it was possible for a new interconnection to increase a player's market power. ImeraPower followed this analysis by arguing that any interconnection would contribute to the growth of competition and the reduction of market shares. It added that, in a non-discriminatory market, every player should receive the same treatment. For its part, Alpiq thought that this was incompatible with criterion *a)* (increase in competition).

In the case of document *iii)*, ImeraPower questioned the real impact of an interconnection with very limited capacity compared to the market in question and the possibility of accessing sufficiently robust data. A market operator questioned whether the investor would be able or should perform this analysis. As for EDF Energy, it thought that it would be difficult for the investor to perform the analysis requested, particularly the part concerning the impact on the congestion rent on the regulated interconnections.

For ImeraPower, the optimum capacity and the cost/risk related to a possible increase in capacity (document *iv)*) would depend greatly on the technology chosen.

In the case of document *v)*, RTE wanted to specify that the duration of the exemption requested and the project's amortisation period should be included. Related to this remark, it suggested that a mechanism for withdrawing the exemption in a case where the project does not take shape within the planned schedule should be set up.

For Alpiq, document *vi)* does not fall within the framework of article 7 of Regulation 1228/2003. Alpiq also asked for a more accurate definition of the independence of the consultancy carrying out this study.

In the case of document *vii)*, EDF Energy considered that the one-month period set between obtaining the document and sending the complete exemption request is too short, and asked for an extension to at least three months.

RTE proposed to add a contractual document to the list proposed by CRE, relating to the assessment of the costs and/or constraints for the community of the connection of the new exempt interconnection.

Finally, EDF stressed the need for consultation between regulators. It wanted greater details on the level of consultation and asked that guidelines for regulators in the cross-border countries should be made consistent.

Part 2.2.1 of the public consultation:

An exemption could be amended or even withdrawn in the event where at least one of the conditions for exemption laid out in Article 7 of Regulation (EC) 1228/2003 or one of the conditions imposed by CRE in the exemption decision is not respected, and if the fault for not meeting these conditions falls on the investor of the new exempt interconnector or on a change in his shareholding.

Moreover, CRE could, exceptionally consider amending the exemption decision in cases of important changes in the economic or regulatory context.

**Question 8:** What do you think of the conditions under which an exemption can be amended? Do you see any other cases where amending would be necessary?

CNR, EDF, EDF Energy and RTE stressed the need for the regulator to be able to revise an exemption in certain cases.

For Edison, ImeraPower and another market operator, such a revision could only take place in a case where an investor breaks the law (Edison, ImeraPower) or one of the conditions predefined in the exemption decision (ImeraPower, the other market operator). Alpiq, ImeraPower and another market operator also pointed out that the investor needs regulatory stability and visibility. EDF added that the revision conditions must be strictly framed.

Alpiq particularly quoted criterion *b*) (risk) as a criterion that could be particularly tricky to assess *ex post* because a similar regulated interconnection project could take shape after the granting of a possible exemption.

EDF and EDF Energy did not consider that a change in the shareholding of a new exempt interconnection should be able to trigger an amendment of the exemption. For EDF, an amendment would not necessarily be relevant if the interconnection capacity is offered competitively on the market. For EDF Energy, it would be necessary to prove that one of the criteria is no longer being met.

RTE suggested the suspension, or even the withdraw, of an exemption in a case where the technical constraints related to the operation of the electricity system and the balance of the network are no longer respected by the operator of a new exempt interconnection.

Finally, RTE thought that a revision could be published, just like an exemption decision. EDF added that it would be necessary to introduce a hearing stage.

Part 2.2.2 of the public consultation:

At the end of the exemption period, the owner of the new exempted interconnector must choose between the following options:

- stop operating the interconnector and disconnect the facility from the transmission grid ;
- ask that the exemption be extended ;
- hand the facility over to the transmission system operators in exchange for a sum taking account of the interconnector's economic value as well as its technical state.

**Question 9:** According to you, are the conditions at the end of an exemption acceptable? If not, what changes would you propose?

RTE thought that CRE's first proposal complied with article 7 of Regulation 1228/2003. It proposed that the operator of the new exempt interconnection should be required to place a sum on deposit intended for the removal or dismantling of its facilities at the end of the exemption period.

CNR, EDF and EDF Energy considered that this proposal was an acceptable solution but a last resort, which should be based on known and objective criteria yet to be specified (EDF, CNR), or that could only be considered in the case where the facilities were not in an operable state (EDF Energy).

Edison, ImeraPower and another market operator thought that this proposal was acceptable.

RTE considered that the second proposal was not provided for by Regulation 1228/2003 and was in favour of exemption for a specified period. It considered that an extendable period might reduce the robustness of the profitability criteria of the upstream reinforcements made necessary by the connection of the interconnection facility to the public transmission grid, and affect the long-term development of the public transmission grid and international regulated interconnections.

CNR, EDF, EDF Energy, ImeraPower and another market operator thought that this proposal was acceptable.

Finally, in the case of the third proposal, EDF and EDF Energy considered this to be the preferable solution. For RTE, on the expiry date of the exemption period, the interconnector should be integrated into the public transmission grid, but RTE might have cause, in agreement with the CRE and the Ministry for Energy, to refuse to integrate it, due to the state or obsolescence of the link. Furthermore, RTE considered that, pursuant to article 10 of the law of the 10<sup>th</sup> of February 2000 and article 37 of law n°2004-803 2 of the 9<sup>th</sup> of August 2004, the integration of the interconnector into the public transmission grid should not imply any financial compensation on RTE's part.

CNR, Edison, ImeraPower and another market operator thought that this third proposal was acceptable.

In general, Alpiq stressed the need to frame the different proposals. EDF suggested ranking the different solutions proposed.

2.3. On the requirements for access to the grid.

Part 3.1.1 of the public consultation:

Article 14 of the law of February 10<sup>th</sup>, 2000 provides that a decree sets the technical requirements regarding the connection of a new exempted interconnector. As long as a decree is not published, the public transmission system operator must publish transition rules.

These rules should be consulted upon. After consultation, the transition rules and the consultation results should be notified to CRE.

**Question 10:** Do you agree with the procedure proposed for implementing technical requirements?

All of the contributors that answered this question (CNR, EDF Energy, Edison, ImeraPower and RTE) agreed with the need to specify the technical requirements for connecting a new interconnector to the public transmission grid.

With regard to the procedure proposed by CRE, the contributors also agreed, nonetheless with certain reservations:

- RTE agreed with this procedure, provided that its right to propose transitional rules is recognised,
- EDF Energy saw a possible discrimination in the public consultation, unless this is also the case for the other projects to be connected.

RTE estimated the time necessary to publish its requirements to be 6 months, starting from the date on which CRE publishes its decision.



Furthermore, RTE specified that the technical requirements for a new exempt interconnection should be the same as for a regulated interconnection. For ImeraPower, it would be best if, for new exempt direct current interconnectors, this procedure only dealt with the connection of the conversion station in alternating current and the public transmission grid.

For RTE, these technical requirements should be set out in a contract between RTE and the operator of the new exempt interconnector.

For CNR, the duration of the transition provisions should be limited and the application order should be published as soon as possible.

Finally, related to this question, RTE indicated that the operator of a new exempt interconnector must obey the rules in force related to the balancing responsible entity mechanism.

Part 3.1.2 of the public consultation:

CRE could specify the conditions for connection to the electricity transmission grid to be applied to new exempted interconnectors.

The procedure for processing connection requests could draw its inspiration from that which is applied to requests to connect a new generation facility.

The new exempted interconnectors could be filed on a waiting list just as a generation facility would be.

**Question 11:** What do you think of the procedure proposed for processing a request to connect a new exempt interconnector? In particular, should such an interconnector be on the waiting list for injections in the same way a generator is?

CNR, EDF Energy, Edison, RTE and another market operator are generally in agreement with CRE's proposal. For ImeraPower, the proposal provides for a more efficient connection process and removes uncertainty for the investor. It asked CRE for guidance on the treatment of existing connection requests for new exempt interconnectors, as, for the moment, these are treated as standard requests for electricity generation and consumption facilities.

Alpiq and RTE specified that the procedure should provide for a study of the constraints generated by the need to reinforce the upstream network, to be sent by RTE to CRE. RTE proposed that this study should also include the costs. Alpiq added that these items should be identified in the technical and financial proposal in order to enable CRE to assess the positive and negative externalities of the interconnection project.

Edison and ImeraPower were opposed to filing a new exempt interconnector on a waiting list for injection capacity. ImeraPower argued in favour of this point of view by referring to the positive externalities of a new exempt interconnector, such as reinforcing security of supply, increasing competition, integrating markets and increasing the production of energy from renewable and intermittent sources.

For Alpiq, CNR and another market operator, the treatment of a new exempt interconnector should, also, be based on that of regulated interconnections, whereas for EDF and Edison, the two types of interconnections should be treated the same.

CNR deduced from this that RTE should disclose its internal procedure concerning interconnections.

Finally, for EDF Energy, in terms of connection, the new exempt interconnections should be treated like other projects.

Related to this question, Alpiq asked for a higher level of coordination between the investor, the transmission system operators and the national regulators concerned. It also asked CRE to closely monitor the entry to and exit from the waiting list of new exempt interconnectors, and that CRE should manage the exchange of data between the system operator and the investor.

Alpiq added that the maximum time limit proposed by CRE (one month) between obtaining the technical and financial proposal, on the one hand, and submitting a complete request to CRE, on the other, seems too ambitious.

Part 3.2 of the public consultation:

If reinforcement of the grid is necessary for connecting a new exempted interconnection, the grid access tariff will take account of the cost, as stated in the current legislation.

In order to ensure economical efficiency, the grid access tariff will not be applied to electricity flows on a new exempted interconnector.

In cases where negative externalities of a planned new exempted interconnector risk to exceed the positive ones, an exemption could be refused because of detriment to the regulated system (condition f).

A distribution of the revenues of a new exempted interconnector exceeding a certain cap could be imposed in order to pay back users for the supported risk.

**Question 12:** What do you think of the proposed financial conditions for connection and access? Do these conditions, combined with the proposed valuation of the conditions for risk (condition b, section 2.1.2 of the public consultation) and for non-detriment to the regulated system (condition f, section 2.1.3 of the public consultation) and after consultation of interested parties, give sufficient protection to the interests of network users?

All players that answered this question (CNR, EDF, EDF Energy, ImeraPower, RTE and another market operator) expressed their agreement with CRE's proposal not to invoice all of the reinforcement costs to the investor, but to take the negative and positive externalities into account in the analysis of the impact on the regulated system.

EDF added that this proposal maintained the stability of the regulatory framework and gave visibility to the investor. It wanted the criteria for assessing the disproportionate nature of the reinforcements to be specified and made objective within the regulatory framework. For ImeraPower, the financial conditions proposed allowed investors to have greater confidence in the development process. Finally, EDF Energy specified that, in cases where the reinforcement costs greatly outweighed the positive externalities of a new exempt interconnector, the exemption should be refused.

RTE offered to provide details on the assessment criteria for the financial impact. In cases where the negative externalities outweigh the positive externalities, RTE proposes to invoice the difference to the investor.

CNR, EDF, EDF Energy, ImeraPower and another market operator also expressed their agreement with the CRE proposal to not apply the tariff for use of the public electricity grids to the new exempt interconnections.

As an alternative to the possible distribution of the profits generated by the new exempt interconnector, ImeraPower proposed reinvesting part of the profits in increasing interconnection capacity. For its part, EDF Energy was opposed to distributing profits, whereas another market operator approved the entire proposal.

Part 3.3.1 of the public consultation:

The transmission system operator could curtail the capacity offered to the operator of a new exempted interconnection for reasons of operational security. If the curtailments go beyond the context laid out in the technical and financial proposal, the operator would be compensated according to one of the following schemes:

- cost of compensation of capacity holders ;
- price differential between the two interconnected markets.

**Question 13:** Do you agree with the level of firmness proposed? In particular, must there be compensation for capacity curtailments that were not forecasted in the technical and financial proposal for connection? If yes, what do you think of the compensation mechanisms proposed?

CNR, EDF Energy, Edison, ImeraPower and another market operator agreed with the level of firmness proposed and the need for compensation in cases of non-forecasted capacity curtailments in the technical and financial proposal.

Concerning the compensation mechanism, ImeraPower declared that it was neutral on the subject of CRE's proposals. EDF Energy and another market operator considered that the two schemes were acceptable, whereas CNR and Edison preferred the second (refund at the price differential), on the grounds of the transparency and simplicity of this proposal. For RTE, the compensation mechanism should, in order to be non-discriminatory, be the same as that in place for the users of a regulated interconnector connecting the same networks. If this scheme is the differential between the spot prices on the connected markets, it pointed out that, in certain cases, caps on the amount of the compensation could be introduced. Finally, RTE stated that it would compensate the investor in the new exempt interconnector and not the users of this interconnector.

EDF Energy and another market operator referred to measures that the public transmission system operator can implement to improve the level of firmness. For another market operator, it is important that the operator is encouraged to favour re-dispatching by power production plants over a reduction in interconnection capacity. EDF Energy specified that re-dispatching should be socialised by means of the tariffs for use of the grids.

Finally, related to this question, ImeraPower had a favourable view towards CRE's proposals on the balancing and on the setting up of a scheduling procedure for new exempt interconnections by the system operator.

#### 2.4 Additional comments

**Question 14:** Do you have any additional comments on CRE's proposal?

EDF Energy described CRE's proposal as a fair and robust initiative to address the problems that an investor might encounter when wanting to connect to the French grid. EDF Energy supports the proposal, which could, in its opinion, form the basis for harmonisation of interconnections with other European electricity markets.

RTE stressed the need for it to draw up an analysis of the impact on the network resulting from the connection of a new exempt interconnection. It offered to draw up two documents:

- a document to help the investor to finalise its *business plan*,
- a document containing confidential data, giving CRE the necessary information to analyse whether the conditions for exemption are satisfied.

Furthermore, RTE noted that CRE does not specify the conditions for a new exempt interconnector to be taken into account in the ten-year investment plan.

RTE also noted that, generally speaking, the rules and procedures accompanying the integration of a new exempt interconnection into the public electricity transmission grid require certain clarifications in terms of both content and regulatory status.

For its part, ImeraPower called for further details on the interaction between the regulators. It wanted to know about the level of consultation between the regulators and the underlying principles. Moreover, it wondered what would happen if regulators could not reach agreement, and wanted to know if the exemption requestor would have access to the correspondence between regulators on its case.

Finally, concerning condition c) (ownership and financing of a new exempt interconnection), EDF asked for the expression "*indirectly controlled*" to be specified.

### 3. Next steps

During the autumn of 2010, CRE plans to publish its final guidelines for the application of article 7 of Regulation 1228/2003 and the terms and conditions for access to the public electricity transmission grid for

new exempt interconnectors. A decision, after deliberation, on the rules for establishing the procedure for processing requests to connect new exempt interconnections to the public electricity transmission grid will also be published.