

Deliberation of the French Energy Regulatory Commission (*Commission de Régulation de l'Énergie – CRE*) on 3 December 2008, to decide on changes to the rules for transferring natural-gas transmission capacity on the secondary market

The following were present at the meeting: Philippe de Ladoucette, Chairman; Maurice Meda and Michel Lapeyre, Vice-Chairmen; Jean-Paul Aghetti, Eric Dyevre, Pascal Lorot and Emmanuel Rodriguez, Commissioners.

1. Purpose

In its document dated 18 October 2007 (*Secondary Markets – the way to deal with contractual congestion on interconnection points – ref E07-GFG-22-14b*), the ERGEG (the European Regulators' Group for Electricity and Gas) decided in favour of developing the secondary market in gas-transmission capacity, as a means of optimizing the use of transmission networks. The ERGEG recommended two actions in particular to facilitate such a development:

- set up electronic platforms to enable gas-transmission capacity to be exchanged anonymously on the secondary market;
- allow coupled capacity to be exchanged between the two sides of an interconnection point, where such coupled products already exist on the primary-capacity market.

The CRE shares this view, and encourages such measures to enable the secondary market for French capacity to develop.

In this context, the purpose of this deliberation is to define the rules for transferring capacity in the natural-gas transmission networks via the secondary market, including:

- the conditions for using the Capsquare platform proposed by GRTgaz;
- the coordination of capacity transfers at the interface between the TIGF and the GRTgaz networks (output from one TSO's network and input into the other TSO's network).

To arrive at its decision, the CRE consulted users of the gas transmission networks between 10 and 27 October 2008 and organized a round-table with them on 27 November. It also heard the views of GRTgaz.

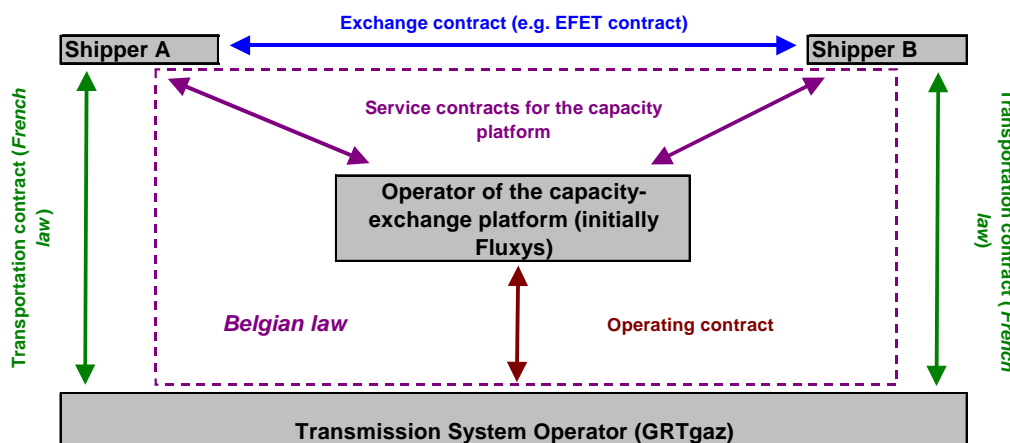
2. Change to the rules for transferring transmission capacity on the secondary market

a) GRTgaz's proposal for a capacity-exchange platform (Capsquare)

During the 2007 satisfaction survey carried out by GRTgaz, and in response to the public consultation carried out by the CRE on the North-South link and the interface between GRTgaz and TIGF, the shippers expressed a requirement for a platform to exchange capacity on the secondary market. Since Fluxys, the Belgian Transmission-System Operator (TSO) had already begun a project of this type, GRTgaz decided to collaborate with it. The two TSOs have worked on the project to build a common platform, known as "Capsquare", which will be open to all European natural-gas TSOs who wish to use it.

The final terms of the GRTgaz proposal were communicated to the market and the CRE at the end of September 2008, with the aim of implementing the live platform on 1 January 2009. GRTgaz's proposal is based on the following principles:

- the Capsquare platform will include:
 - multilateral and anonymous bids for capacity, exchanged between shippers;
 - a notification service, so that capacity exchanged over-the-counter could be registered with GRTgaz;
- These bids relate to temporary transfers (usage rights) for standard products lasting less than one year; and full transfers (of title) of firm annual capacity.
- the platform will be the only capacity-exchange system provided by GRTgaz;
 - the existing automated system, which at no additional cost records transfers of usage rights made over-the-counter, will be transferred from ECT, GRTgaz's customer site, to Capsquare;
 - the existing manual system (fax or letter), which at no additional cost records full transfers of capacity made over-the-counter, will be maintained;
 - users will pay to access to the platform for the multilateral exchange service and the OTC notification service, in order to cover the costs of developing and administering the system. The price, comprising a fixed charge to access the platform and a variable charge proportional to the capacity exchanged, will be set by GRTgaz;
 - the contractual obligations for using Capsquare may be represented as follows:



This representation has two main features. Firstly, the transportation contract signed between GRTgaz and the shipper will designate Capsquare as the sole system offered by GRTgaz to enable capacity to be transferred. Secondly, each shipper that wishes to exchange transmission capacity will have to sign a service contract with the operator of the Capsquare platform. This operator will be Fluxys when the platform is first launched, but could later be an entity created jointly by GRTgaz and Fluxys for that purpose. This service contract will be subject to Belgian law.

b) Coordinating transfers of capacity at the interface between the GRTgaz and TIGF networks

The tariff structure for using the transmission networks that takes effect on 1 January 2009 provides for GRTgaz and TIGF to trade transmission capacity jointly at the interface between GRTgaz's South zone and the TIGF zone. This provision applies to all capacity that is traded at the interface between the GRTgaz and the TIGF networks, except for daily capacities.

The operational implementation of this decision by GRTgaz and TIGF enables capacities at their interface to be coupled on the primary market, which complies with the CRE's decision, but does not guarantee that similar coupling will be maintained if capacity is transferred between shippers on the secondary market.

The CRE wished to consult network users about the appropriateness of authorizing only exchanges of coupled capacity between shippers at the interface between the GRTgaz and TIGF networks.

3. Summary of the consultation with users of the transmission networks

The CRE received 20 responses to its user consultation, 11 from suppliers to final customers, 8 from traders and one from an industrial consumer.

a) Summary of the responses concerning the GRTgaz proposal for Capsquare

The great majority of contributors are in principle in favour of a platform for exchanging secondary capacity. However, they voiced several strong reservations about the solution proposed by GRTgaz.

- Shippers wanted the activity of exchanging capacity via a multilateral platform to be distinguished from the activity of notifying OTC capacity exchanges:
 - they consider that the activity of notifying capacity transfers is one of the TSO tasks included in the tariff. Currently, ECT, GRTgaz's customer site, may be used to notify OTC exchanges. The costs of this service are shared over the transmission tariffs. For shippers, paying for the OTC exchange service offered by Capsquare would represent an additional cost, even though the service adds no value to what exists already. For this reason, most shippers are opposed to the requirement to use Capsquare for all capacity exchanges;
 - several shippers think, by contrast, that running a multilateral exchange platform is a competitive and commercial activity. They do not want Fluxys and GRTgaz to create a monopoly for this activity.
- A large majority of shippers consider that the prices for using the platform set by GRTgaz are too high, in particular for OTC transactions. They are concerned that prices set at this level will hinder the development of the secondary market;
- Some shippers want changes made so they can benefit from a more flexible service (such as different maturity dates for products exchanged and ways to manage lists of counterparties, etc.);
- Some shippers stress that OTC capacity exchanges (volume and price) should not be published on the platform;
- Several shippers criticize the way in which the contractual obligations are represented:
 - one shipper highlighted the fact that the relationships between users and the platform operator would be governed by Belgian law. It was concerned that in the event of a dispute, the Standing Committee for Dispute Settlement and Sanction (*Comité de règlement des différends et des sanctions - CoRDIS*) would not be the competent arbitrator, although from its perspective, providing the opportunity to exchange capacity is a regulated service that the TSO must offer;
 - one shipper would have liked GRTgaz to provide a clearing-house mechanism, rather than multiple bilateral agreements between shippers.

Overall, a large majority of transmission-network users are strongly opposed to GRTgaz's proposal.

b) Coordinating transfers of capacity at the interface between the GRTgaz and TIGF networks

Shippers are very largely in favour of coordinating capacities at the interface between the GRTgaz and TIGF networks, including on the secondary market.

Only one contributor said it was against this measure. It considered that it would lead to a loss of flexibility, since it would become impossible to sell gas at the interface or to increase the fixed charges at one side of the interface to compensate for the impact of maintenance work.

Another stakeholder is in favour of coordinated capacity transfer, but thought it unsatisfactory that primary daily capacities were not coordinated at the interface between GRTgaz and TIGF.

4. The CRE's analysis

a) *GRTgaz's Capsquare proposal*

At the moment, the liquidity of the secondary market for gas-transmission capacity in France remains very limited. Thus between January and September 2008, transferred capacity represented only 2% of primary capacity. On average, 9 transactions were concluded each month. 19 shippers were involved in these transactions, but 71% of the capacity was exchanged between just four major stakeholders.

In this respect, GRTgaz's proposal for a platform that makes it possible to match an offer and a demand for capacity is likely to promote the emergence of a more liquid and more transparent secondary market for transmission capacity.

In addition, GRTgaz's proposal to share the platform with Fluxys and open it to all European TSOs will firstly help to build the European gas market and secondly reduce costs for users.

However, the revised usage tariffs for natural-gas transmission networks that take effect on 1 January 2009 provide for a notification service, the costs of which will be shared across the tariff, coexisting with a new chargeable service platform, offered by the TSOs as required:

"Transmission capacities subscribed at the entry points, at the exit to network interconnection points (PIR) and at the links between balancing zones may be freely transferred at no extra charge to shippers who do not use the capacity exchange platform offered, as required, by the TSOs".

Under these conditions, GRTgaz's proposal for a mandatory platform for which its users would pay, and covering the activities of exchanging capacity and notifying those exchanges, would require changing the tariff rules in force on 1 January 2009.

In addition, the representation of contractual obligations proposed by GRTgaz is not acceptable as it is. It means that every shipper wishing to exchange capacity will be required to do so via the Capsquare platform, and thus to sign a contract governed by Belgian law with Fluxys. Notifying exchanges of capacity is an activity that cannot be dissociated from that of accessing the transmission network. The conditions for accessing this service must thus be defined in the transportation contract.

GRTgaz has told the CRE that the representation of contractual obligations is provisional, and that GRTgaz and Fluxys intend in future to create a joint entity (an economic-interest group (*Groupement d'Interet Économique – GIE*) or subsidiary) responsible for marketing the service. The CRE will review the future representation of contractual obligations in conjunction with the Belgian Commission for Regulation of Electricity and Gas (*Commission de Régulation de l'Électricité et du Gaz - CREG*), the Belgian energy regulator.

Lastly, regarding the other reservations raised by shippers, the Capsquare working group, created as part of the consultation process for access to the gas-transmission network, should enable solutions acceptable to the various parties to be identified.

b) *Coordinating transfers of capacity at the interface between the GRTgaz and TIGF networks*

The nature of the coordinated capacity trading at the interface between GRTgaz and TIGF is such that it facilitates access to the transmission capacities across the two networks. The CRE notes that shippers are almost unanimously in favour of this rule being extended to the secondary-capacity market.

GRTgaz and TIGF need to coordinate their maintenance operations, and ensure that they always publish the same rates of reduction of capacity on either side of that interface.

5. Decision

a) GRTgaz's Capsquare proposal

The tariff structures in force on 1 January 2009 provide that gas TSOs must offer a service to register notifications of capacity exchanged without additional cost to the users. This service is an essential element in the regulated bid for gas transmission.

The same tariff rules also provide that gas TSOs may offer a parallel chargeable service platform for electronic capacity exchange.

As a result:

- GRTgaz may offer, on a trial basis, services associated with the Capsquare platform for exchanging gas-transmission capacity. The service for registering capacity-exchange notifications offered by this platform must remain free of charge and of a quality equivalent to that currently offered by the ECT customer portal;
- once the group associated with the consultation process has completed its work, and before 30 April 2009, GRTgaz shall submit to the CRE its proposals for running the secondary capacity market, and the conclusions from the trials carried out using the Capsquare platform. The guiding principles must at all times be to develop the liquidity and transparency of the secondary capacity market. In addition, GRTgaz shall ensure that, if the trials are unsatisfactory, it is still possible to return to the service offered currently via the ECT customer portal;
- the terms and conditions for access to the registration service for transmission-capacity exchanges must be defined in the transportation contract and shall be submitted beforehand to the CRE for approval.

b) Coordinating transfers of capacity at the interface between the GRTgaz and TIGF networks

Transfers between shippers of transmission capacity at the interface between GRTgaz and TIGF must be coordinated, as they are for primary trading. This provision applies both to the transfer of usage rights and to full transfers.

In these circumstances, the CRE is asking GRTgaz and TIGF to provide in their operational rules to take effect from 1 January 2009, that any transfer of capacity at the interface between GRTgaz and TIGF must be notified to the two TSOs and must involve the same purchaser and the same capacity (level and duration) on both sides of the interface.

Signed in Paris on 3 December 2008

For the Energy Regulation Commission (CRE),
The Chairman

Philippe de Ladoucette