



14 January, 2010

**Summary of the public consultation led by the CRE on Elengy's LNG terminals**

**Technical consultation document**

From 30 November to 24 December 2009, the CRE held a public consultation with a view to collecting the opinions of market players on :

- the Fos-Tonkin Open Season ;
- rules on sharing send-out among Continuous Service Customers.

11 replies were sent to the CRE :

- 6 came from shippers ;
- 3 came from gas infrastructure managers ;
- 2 came from energy trade associations.

## Part 1: The invitation to subscribe process launched by Elengy for the sustainability project of the Fos-Tonkin LNG terminal

**Question 1:** *In your opinion, is the timetable for the open season proposed by Elengy acceptable?*

### Shippers

Five shippers consider that the timetable is too tight.

Three of these shippers commented on the concomitance of the project and the capacity release at GDF Suez. They would like the invitation to subscribe on Fos-Tonkin to take place after the capacity release open seasons are finished.

Two of the other shippers unreservedly believe that the proposed timetable prevents them from replying properly. One of these shippers states that the specific nature of the product makes it harder for a new entrant to reply in a short space of time. It suggests that the end of the allocation process be postponed to September 2010.

One shipper was satisfied with the timetable.

### Infrastructure managers

Elengy believes that the timetable proposed is acceptable because :

- the market players concerned by this operation were informed in advance ;
- any delay in the timetable would compromise the project's completion.

### Energy trade associations

Both energy trade associations think that the timetable should be revised.

The first shipper thinks that the timetable is too rigid particularly due to the product's specific nature and the long-term commitment required. The second would like the invitation to tender to take place after the capacity release open seasons are finished.

**The majority of market players believe that the timetable of the invitation to subscribe process proposed by Elengy is too short. Most of the players would like the end of the allocation process to happen once the Montoir and Fos Cavaou reservoirs are made available (March or June 2010).**

**Question 2:** *What do you think of the levels of subscription thresholds considered by Elengy for its economic test? What do you think of the indicative maximum unit tariff of 1.5 €/MWh?*

### Shippers

The shippers' replies to this question vary depending on their understanding of Elengy's industrial project.

One shipper out of six approved the terms of the economic test and the tariff; it highlighted the ageing of the existing terminal and the significant investment required.

Two shippers think that the tariff associated with such a sustainability project should be lower. One shipper deems the tariff uncompetitive.

One shipper believes that the economic test proposed today by Elengy does not provide for all the investment necessary in the project; it commented on the issue of congestion of the GRTgaz network.

Lastly, one shipper doubts the sustainability of the model; it would like more visibility on the potential increase of the tariff, requesting an analysis of sensitivity to the subscription level.

### Infrastructure managers

Elengy specifies that its maximum tariff is indicative, and is essentially a signal to the market about the competitiveness of the product on offer. This manager recalls that the target tariff is €1.3/MWh

### Energy trade associations

One association believes that the subscription thresholds chosen by Elengy for its economic test are too high.

Another association notes that any change to the regulatory framework used for the sustainability project of the Fos-Tonkin terminal would not impact other investments.

**While the market players do not show any strong opposition to the terms of the economic test and in particular the setting of the maximum tariff at €1.5/MWh, they express the following reservations :**

- **the scope of the necessary investments is unclear ;**
- **the tariff proposed is the upper limit and judged high ;**

**Question 3:** *What do you think of the launch of a discussion phase between Elengy and potential subscribers who have submitted binding requests if no project is validated by the economic test?*

#### Shippers

The shippers understand that the aim of this phase would be to discuss the scope of investment and not purely booking capacity. From this perspective, three of are favourable to this discussion phase.

Two shippers believe that this constitutes a new project and should be the subject of a new market offer.

Two other shippers understand that the discussion would involve a less ambitious project. In their opinion, this project should be presented upstream to all of the potential subscribers.

#### Infrastructure managers

Elengy states that this approach would only be adopted if the subscriptions exceeded 3 Gm<sup>3</sup>/year, and would enable the project to be completed according to the wish of some subscribers.

#### Energy trade associations

The energy trade associations are opposed to this discussion phase.

One believes that it could mean a possible price increase, while another one insists on the purely indicative nature of the economic tests.

**Opinion is divided on this issue, and quite negative, based on a feeling of a lack of transparency. On the whole, the market players understand that this discussion phase would address investments, not just tariff changes. Some perceive it as a new market offer; others would like this alternative scenario to be presented straight away to all of those involved.**

**Question 4:** *What do you think of the remuneration framework envisaged by CRE for costs and deadline overruns?*

#### Shippers

The five shippers having replied to this question are favourable to the remuneration framework envisaged by the CRE.

Four of the shippers thereby expect risks to be better shared between the operator and shippers.

One shipper stipulates that this framework should be clarified and strengthened. Another one meanwhile proposes that overruns equal to 5 to 10% of the initial costs be covered up to 90% by the tariff, but that higher overruns should not be covered.

#### Infrastructure managers

Two infrastructure managers (Elengy and GDF Suez Branche Infrastructure) believe that “the current pay rate of assets [...] does not allow Elengy to cover its capita induced costs”. They believe that the tariff framework evolution proposed here is contrary to economic efficiency and can lead the operator to stop investing. Finally, they underline their impression of a regulatory instability.

#### Energy trade associations

One association, opposed to a regulated regime, nevertheless calculates that within the latter’s framework all of the costs borne by the operator should be covered by the tariff and therefore rejects the tariff policy proposed by the CRE. Another one, however, is favourable to it.

**All of the shippers which replied to the question, and the large majority of the market players support the CRE’s proposition. Some ask for a stronger proposition. All see in it a better sharing of risks between the shippers and operator.**

**Question 5:** Do you think that the allocation rules proposed by Elengy are transparent, non discriminatory and suited to the specific requirements of the Fos Tonkin LNG terminal ?

#### Shippers

Two shippers are satisfied by the allocation rules. One of the shippers believes that they will facilitate the optimization of the terminal's operations. One shipper insists on the positive nature of this transaction for all of the players, because by increasing the liquidity of the PEG South, it will promote competition. This shipper also notes the beneficial effect of the project for securing supply.

Three shippers express their doubts.

They recall that Fos-Tonkin can only take small vessels (of which the capacity is under 75 000 Nm<sup>3</sup>), ever fewer (12 known as of today, 5 in 2014). This tends to favour the terminal's traditional shippers whose fleets are adapted over a long period of time, to the detriment of smaller shippers. The two allocation criteria which are called into question are the size of the vessels and the length of the subscription period.

One shipper considers that "no publicity of the procedures for allocating capacity is mentioned in the document Elengy".

#### Infrastructure managers

#### Energy trade associations

One association considers that the question is a matter for the CRE, while another believes that the allocation rules proposed by Elengy favour the largest shippers.

**The majority of players, while not questioning the general principles for allocation rules, have reserves concerning a very specific product, such as, such as the problem for a fleet of adapted vessels to access the terminal, giving the impression that the product is reserved for a minority of which the traditional player.**

**Question 6:** *What do you think of the minimum subscription limit of 5 TWh/year proposed by Elengy?*

Shippers

Three shippers associate this threshold with 12 vessels a year, and consider it acceptable.

Two shippers associate this level with the minimum threshold necessary for a continuous service. One of these shippers considers that 12 boats are necessary for continuous service, and associates 6 TWh/year to these 12 boats; this is the threshold it recommends. The other shipper recalls that the ATTM3 authorises a shipper to unload 10 vessels per year in one terminal to subscribe to the "continuous" offer. It associates 3 TWh/year to these 10 vessels; this is the threshold it recommends.

Infrastructure managers

One infrastructure manager states that this criterion allows the optimal running of the LNG terminal.

Energy trade associations

One association considers that this criterion is discriminatory, just like those mentioned in question 5.

**Replies to this question are favourable to the principle of a minimum threshold corresponding to the minimum quantity required for a continuous service. Some players question the criteria for evaluating this quantity.**

**Question 7:**

*What do you think of the releasable capacity mechanism proposed by CRE for the Fos Tonkin terminal ?*

Shippers

Three shippers are favourable to the setting-up of a mechanism to release capacity.

One shipper is not opposed to it but does express reserves about its efficiency, since the supply chain remains constricted upstream by the lack of availability of an adapted fleet of vessels.

One shipper is not favourable to the mechanism, considering it unadapted to the Fos-Tonkin context.

Infrastructure managers

Elengy considers that the implementation of such a mechanism would threaten the success of the invitation to subscribe; if it went ahead, the time-frames for releasing capacity would be too short. Elengy recommends a 15-month time-frame.

### Energy trade associations

One association would like 10% of the terminal's capacity to be available for short-term operations.

The other association is favourable to the mechanism proposed by CRE. It would like to shorten the leadtime required, the minimum length and minimum volume, to introduce more flexibility for new market entrants.

**The market players tend to be favourable to the setting-up of a mechanism to release capacity, as long as the conditions necessary to run it properly are in place.**

**Question 8:** *Do you consider the introduction of an incentive-based contribution of €100,000 and the related conditions relevant?*

### Shippers

The 6 shippers taking part in the consultation express reserves on the incentive contribution.

Three shippers would like to know what justifies this contribution and the amount requested. Two shippers consider that the amount is too high. Two of them say they fear this could constitute a barrier to entry. Two other shippers consider that the contribution should not be paid by the players which pull out of the project if it went ahead, whether the economic test fails or not.

### Infrastructure managers

Elengy considers that this contribution supports the representativeness of the indicative data, stating that the amount is modest compared to the cost of the minimum annual quantity to be subscribed.

### Energy trade associations

One association is opposed to this contribution which it believes is discriminatory. Another association, while not widely against this contribution, asks that more information be given about its payment.

**The majority of the market players, in particular all the shippers having taken part in this consultation, are opposed to this contribution. They would ask for a justification of the amount and the precise payment conditions. In the scenario where the project is completed despite the economic test failing, they refuse any compensation payment.**

**Question 9:** Do you have any other comments?

Shippers

One shipper requests more information on the following points :

- the possibility of changing a request between the non-binding phase and the binding phase ;
- the existence of the "spot" service at the long-term terminal.

It expresses reserves concerning :

- the financial guarantee, deposited as of the qualification phase – which generally happens after allocation for similar operations on the transmission network – is considered premature and an excessive amount ;
- the definition of the *force majeure* clause is deemed too vague.

Infrastructure managers

Elengy requests the definitive setting of the principles on tariff visibility by January 2010, as soon as CRE's approval is obtained, and not at the end of 2010.

Energy trade associations

One association considers that the project favours the largest market players and particularly the traditional incumbents. This sentiment is perceived in the replies to other questions by several other players .

One association asks a question about the availability of capacities at the exit of the terminal on the transmission network. This question is also raised by one shipper, in the answers to questions 2 and 5.

**The other comments from market players address the following points :**

- **the opinion that the financial guarantee should not be paid before the binding phase ;**
- **they await more details on the conditions which allow confirmation of the Fos-Tonkin send-out capacity onto the transmission network.**

## Part II: The rules for sharing send-out between several Continuous Service shippers.

**Question 1:** What do you think of the continuous service send-out sharing mechanism proposed by Elengy?

### Shippers

Three shippers are favourable to the overarching principle of sharing send-out. One of these shippers, reserves its final judgment for the review of the rules specific to each terminal; another shipper disagrees with some of the rules announced by Elengy, in questions 2 and 3.

### Infrastructure managers

### Energy trade associations

One association disapproves this system, which it believes harmful to the small shippers having subscribed to the “continuous” offer.

**The majority of players are favourable to the principle of send-out sharing. However, this theoretical proposal must be put into practice by taking into account the specific nature of each terminal.**

**Question 2:** In your opinion, how should the deficit allowance be calculated? What do you think of the calculation method for the financial guarantee related to the deficit allowance?

### Shippers

One shipper agreed with the calculation of the financial guarantee proposed by Elengy.

One shipper would like the calculation to include :

- The varying send-out from the terminal and its distribution ;
- The specific nature of the terminal and of the Mediterranean LNG chain ;

One shipper would like the deficit allowance of each shipper to be proportional to its annual subscription. It also validates the principle and the amount of the financial guarantee.

### Infrastructure managers

### Energy trade associations

One association is favourable to the deficit allowance but deems the current amount too high.

**The market players are favourable to the deficit allowance proposed by Elengy.**

**Question 3:** What do you think of the send-out compensation system proposed by Elengy?

*Shippers*

Three shippers are favourable to the compensation system for send-out. Two of these shippers would like full, not limited, compensation.

*Infrastructure managers*

*Energy trade associations*

One association is favourable to this mechanism, but would like a less penalising compensation system for small Continuous Service shippers.

**The majority of players are favourable to the principle of sharing send-out. Two participants are opposed to the setting-up of such a system: one would like full compensation and the other more flexibility for the small shippers subscribing to the “continuous” offer.**

**Question 4:** Do you have any other comments?

*Shippers*

Three shippers express their doubts:

- One shipper insists on the theoretical nature of the model proposed and would like the model to evolve by taking account of the feedback at the end of a year. Another shipper would like this model to integrate from now on the conclusions of the feedback concerning Fos Cavaou. For one shipper, one of the essential points of this feedback is that the size of the terminal must be adapted to the number of shippers expected ;
- Two of the shippers raise questions about:
  - the number of shippers at the terminal ;
  - the impact of the process for sharing send-out at the exit of the terminal ;
- One of the shippers also wonders about the proportion of Continuous Service Customers and Uniform Service Customers envisaged.

*Infrastructure managers*

Elengy underlines the importance of launching this innovative project in France in a transparent and non-discriminatory way, taking into account the concerns of shippers.

*Energy trade associations*

One association would like regulation to be generally overhauled in favour of shippers with regards to making the offer flexible.

**From this question, as from the others, the following can be concluded :**

- **the market players are favourable to the general principle of sharing send-out, but do not fully understand the details of the mechanism ;**
- **Elengy’s proposal is theoretical, and the implementation phase will require taking into account the specific nature of each site ;**
- **the definitive validation should take place one year after observation of the principle in action**

