

## **Deliberation of French Energy Regulatory Commission (CRE) of July 8th, 2010 on the rules for the sale of transmission capacity at the link between the North and South balancing zones of GRTgaz and at the interconnection between GRTgaz and TIGF, as of April 1<sup>st</sup>, 2011**

Participating in the deliberations were: Mr. Philippe de LADOUCKETTE, Chairman, Mr. Maurice MEDA, vice-Chairman, Mr. Jean-Paul AGHETTI, Mrs. Anne DUTHILLEUL, Mr. Jean-Christophe LE DUIGOU and Mrs. Marie-Solange TISSIER, commissioners.

The present deliberation is made in reference to article 37-1 of law n° 2000-108 dated February, 10<sup>th</sup> 2000.

### **1. Context and purpose of the present deliberation**

#### **1.1. The link from the North balancing zone to the South balancing zone of GRTgaz**

Since January 1<sup>st</sup>, 2009, access to french natural gas transmission networks has been organised into three balancing zones operated by two transmission system operators, TIGF in the South-west and GRTgaz over the rest of mainland France. Although this new structure has led to significant improvement, access to the South of France still remains difficult for shippers that do not have supplies from the Fos LNG terminals. Indeed, most access capacity to the South balancing zone of GRTgaz and TIGF relies today, with the exception of the supply of liquefied natural gas (LNG), on the North to South link of the GRTgaz balancing zones. To date, the last capacity allocations carried out on this link in 2008 and 2009 led to demand being much higher than available capacity.

In its deliberation dated October 15<sup>th</sup>, 2009 relating to the rules for allocating link capacity from the North balancing zone to the South balancing zone of GRTgaz, CRE introduced a new allocation procedure applicable to annual capacity sold during the period going from April 1<sup>st</sup>, 2010 to March 31<sup>st</sup>, 2011, with a view to ensuring minimal allocation for players with limited requirements. CRE also asked that the consultation work be pursued within the framework of the 'Concertation gaz' in order to define the allocation rules for future annual and multiyear capacity (2, 3 and 4 years) available as of April 1<sup>st</sup>, 2011.

#### **1.2. Purpose of the present deliberation**

The present deliberation aims to define the rules for allocating annual and multiyear, firm and interruptible, capacity, as from April 1<sup>st</sup>, 2011 on the North to South link of the GRTgaz balancing zones, and to maintain the rules in force on the South to North link of the GRT balancing zones as well as on the interconnection between TIGF and GRT gaz South.

The capacity offered on the market as from April 1st, 2011 will be the following:

	<b>Annual</b>	<b>Multiyear (2, 3 and 4 years)</b>
<b>Firm capacity</b>	46 GWh/d	32 GWh/d One third by maturity
<b>Interruptible capacity</b>	44 GWh/d	42 GWh/d One third by maturity

As from November 1st, 2011, 10 GWh/d of firm capacity and 15 GWh/d of interruptible capacity will become available on the market, due to the expiry of a transit contract.

Given the fact that a part of the capacity starting on April 1st, 2011 will be offered on the market for a four-year period, i.e. till March 31<sup>st</sup>, 2015, it is important to specify that, if considering the possibility that the organisation of the transmission zones in France might evolve resulting in a capacity product disappearing, any corresponding capacity booking commitment would become null and void.

## **2. Work of the Concertation gaz group and GRTgaz's proposal**

### **2.1. Consultation work**

The « Capacity Allocation » working group of Concertation gaz, bringing together various market players (transmission system operators, shippers, industrial clients) dedicated its work from January to May 2010 to the study of the following three allocation methods: pro rata, « needs-based » and auctions. Consultation work led GRTgaz to draw up an allocation rule proposal<sup>1</sup> which it submitted to CRE on May 25<sup>th</sup>, 2010.

### **2.2. GRTgaz's proposal**

Of the three methods studied, GRTgaz proposes to select the pro rata allocation method. These allocation rules cover all capacity, annual and multiyear, firm and interruptible, at the North to South link of the GRTgaz zones, starting from April 1<sup>st</sup>, 2011 and thereafter.

#### **2.2.1. Annual capacity**

The allocation rules proposed consist, for annual capacity, of a pro rata-based allocation in two stages of 23 GWh/d each for firm capacity and of 22 GWh/d each for interruptible capacity.

The first stage is open to shippers who have an authorisation to supply end consumers and also to shippers who are, themselves, end consumers and who have entered into a connection contract. Those participating in the first stage can submit their capacity requests by using the « guaranteed allocation » option. To be able to use this option, the participant's demand must not exceed 2 GWh/d. The participants that have chosen this option have priority over other participants for allocation, but must, in return, renounce to participating in the second stage of the allocation. It is important to stress that if the sum of the demands of all participants having opted for the « guaranteed allocation » option is higher than the capacity offered on the market at this stage, the demands will then be allocated on a pro rata basis.

The second stage is open to all shippers except those having selected the « guaranteed allocation » option at the first stage. It is organised in several successive allocation rounds of at least 5 GWh/d each.

#### **2.2.2. Multiyear capacity**

The allocation rules proposed consist, for multiyear capacity, of successive allocations on a pro rata basis, over several rounds. Each firm or interruptible capacity maturity is offered on the market in successive rounds of at least 5 GWh/d each.

#### **2.2.3. Schedule for selling capacity and information between the rounds**

In accordance with rules currently in force, GRTgaz proposes to offer capacity on the market in a successive way, in decreasing order of maturity. As a complement, GRTgaz proposes to communicate to participants, after each stage, the total volume of capacity requested as well as the number of requests received.

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<sup>1</sup> [www.cre.fr/fr/content/download/9777/166930/file/100525PropositionGRTgazNordSud.pdf](http://www.cre.fr/fr/content/download/9777/166930/file/100525PropositionGRTgazNordSud.pdf)

### 3. CRE's analysis

GRTgaz's proposal for rules was submitted to CRE's public consultation from June 4<sup>th</sup> to 18<sup>th</sup>, 2010. An overview of the 27 replies received is appended to this deliberation.

#### 3.1 The North-South link is used at a level close to its maximum capacity

The rate of use of firm capacity of the North to South link was of 96 % for 2009. This rate decreased during the last months due to the series of tests on the Fos Cavaou terminal, and the start-up of the terminal on April 1<sup>st</sup>, 2010, bringing the rate of use down to 91% today. The Fos Cavaou terminal's entry into service at 100%, and the development of entry capacity from Spain will contribute to improving the conditions of supply of the south of mainland France and thus contribute to reducing capacity congestion on the North to South link by 2013 and 2015. Even though this high rate of use reflects a situation of almost physical saturation on the link, the short term Use-it-or-lose-it mechanism<sup>1</sup> in place since January 1<sup>st</sup>, 2009 functions and enables, in association with other tools (secondary market), to provide satisfactory supply to the GRTgaz South and TIGF zones.

#### 3.2 The evolution of the market signals is positive

The rate of openness of the retail markets has significantly improved on the South balancing zone of GRTgaz since January 2009. The market share in volume per year of alternative suppliers reached 19 % at the end of March 2010, which is close to the 21 % observed in the North balancing zone (Source : Market observatory – CRE). Moreover, the average day-ahead price spread observed between the PEG (title transfer point) North and the PEG South over 2009 is of 0.3 EUR/MWh. This level, inferior to the equivalent tariff of firm capacity on the North to South link, shows that the daily wholesale market has not integrated a bonus for rareness in the value of the daily capacity from North to South, which is satisfactory. This observation must, however, be put into perspective considering the still limited liquidity on the wholesale market at the PEG South.

#### 3.3 Choice of allocation mechanism

##### 3.3.1. No implementation of the « needs-based » allocation mechanism

The « needs-based » allocation method has not been selected in the allocation rules proposed by GRTgaz.

The results of the public consultation highlight very different and strong positions on this subject. Nearly all shippers and the two transmission system operators are against the implementation of the "needs-based" method. On the contrary, industrial customers are in favour of this method, whilst specifying that its implementation would only be relevant if all capacity at the link, including that under contract, be allocated according to this mechanism.

CRE considers that the difficulties in principle that were expressed during the public consultation on the « needs-based » allocation method back up GRTgaz's proposal.

This is not a virtuous method as it does not encourage capacity booking on the other entry points of the South and TIGF zones or purchases at the PEG South and TIGF, meaning it does not contribute either to security of supply or to liquidity on the wholesale markets in the South of France. Indeed, a shipper's right to hold North to South capacity in accordance with the « needs-based » method decreases as his entry capacity held on the entry points outside the North to South link, or his purchases at the PEG South or TIGF, increase.

On top of this, applying this method would lead to a loss in visibility for shippers. The allocation of each shipper would consequently vary upwards or downwards several times per year, according to exogenous parameters, for example, starting up a combined-cycle gas turbine in the south of France or the rate of emissions of the Fos Cavaou terminal.

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<sup>1</sup> Short term Use-it-or-lose-it: Mechanism ensuring that capacity reserved for day D by a shipper and not used by day D-1 is proposed to other shippers at a price equal to 1/500<sup>th</sup> of the price of the annual subscription.

Taking account of these elements, CRE is in favour of GRTgaz's proposal to not select the « needs-based » allocation methods in the allocation rules.

### 3.3.2. Continuing with consultation work on the methods for allocation at auctions

The « allocation of capacity » working group of Concertation gaz studied, for the first time, the method for allocation at auctions. These studies fall within a European context. Indeed, ERGEG<sup>1</sup> published on June 9<sup>th</sup>, 2010 its framework guideline concerning allocations of transmission capacity for gas at the interconnections between balancing zones. This guideline indicates that the auction mechanisms should ultimately be privileged at the interconnections between the balancing zones. If this is not possible, the guideline specifies that the implementation of a pro rata-based method can nonetheless be authorised for an intermediary period. This framework guideline will be transposed by European transmitters into a « network code », which is intended to be binding and appended to the European Gas Regulation by 2012.

'Concertation gaz' work has made it possible to identify that the risks of inflation of capacity prices and of market power abuse are associated to the auctions sales methods.

CRE considers that the existence of such risks makes it essential to define an appropriate framework for auctions, making it possible to manage them. Therefore, before any capacity is introduced, it is vital to ensure, firstly, that the potential inflation of the price of the capacity is managed in such a way that it will not lead to a rise in gas prices in the south of France and secondly, that no players are able to use the opportunity to abuse their market power. Various levers, such as the introduction of a ceiling price or a criterion for limiting market power (i.e. maximum part of capacity allocated per shipper) have already been mentioned during consultation works. Moreover, the potential introduction of auctions means that certain key parameters need to be established, bringing up the transportation and transmission tariff, such as the level of the reserve price and the method for managing differences in the transmission system operator's income which the auction mechanism could have brought about.

In view of this, CRE submitted the project to pursue studies on this theme to public consultation in the framework of 'Concertation gaz', with the objective of introducing a mechanism for allocation at auctions in April 2012 at the earliest.

Nearly all shippers are in favour of continuing work on the auctions. Half of them are in favour of introducing this method as soon as April 2012, considering that it is likely to be profitable to the functioning of the market in terms of accuracy of price signals and visibility on the volumes of capacity allocated.

On the contrary, all industrial clients as well as two shippers are against the introduction of auctions as early as April 2012, given the current constraints in supply to the South of France which could lead to an inflation in the price of capacity, thus being detrimental to market development. One shipper considers that auctions should be subject to a much broader study. Indeed, the latter considers that the introduction of an auction mechanism on just a part of the access capacity to the south of France could lead to a distortion of competition, thus increasing the risks of inflation for new entrants. Several contributors also recall that consultation work must aim to limit the above-mentioned risks.

With this in mind, CRE considers that consultation work on the mechanisms for allocation at auctions should continue, as the European guidelines specify that these allocation mechanisms will ultimately be privileged for the allocation of capacity at the interconnections between balancing zones.

As a result, CRE asks 'Concertation gaz' to pursue work on the conditions for implementing an allocation at auctions allowing, in particular, to manage risks of inflation and abuse of market power as mentioned. CRE would like this work to fall within the perspective of the possible application of these allocation mechanisms to the other interconnection points between balancing zones.

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<sup>(1)</sup> ERGEG : *European Regulators' Group for Electricity and Gas*

More specifically, concerning the allocation of the capacity of the North to South link, CRE considers that improving the conditions of access to the GRTgaz South and TIGF zones by effectively bringing new interconnection capacity into service between France and Spain is a necessary first step to the implementation of auctions in order to limit risks of inflation. CRE considers that such an introduction could not be made before April 1<sup>st</sup>, 2013.

### *3.3.3. Implementation of an allocation on annual capacity through a pro rata-based mechanism in two stages with the “guaranteed allocation” option*

GRTgaz’s proposal is described in point 2.2. above.

In answer to the public consultation, all contributors, even if some by default, are in favour of the principle of selling capacity on a pro rata basis on April 1<sup>st</sup>, 2011. A large majority of them are in favour of maintaining an allocation on a pro rata basis in two stages, in accordance with the « guaranteed allocation » option. They do not, however, agree on the specifications for applying the method, in particular concerning the level of guaranteed allocation and the respective importance of the two stages.

Concerning the appropriate level of guaranteed allocation, the positions expressed by the contributors are varied. Some consider that the level should be maintained at 1.5 GWh/d, or decreased in the objective of, in particular, enabling shippers with important needs in terms of capacity to be allocated capacity as early as at the first stage of allocation. On the contrary, others consider that this level should be brought up to 2 GWh/d or even 2.5 GWh/d, whilst increasing the importance of the first stage to 75%.

Finally, a minority of contributors is in favour of a method that would make it possible to bypass the guaranteed allocation mechanism, by proceeding to an allocation of all the available capacity in several successive rounds. As regards this last point, CRE considers that this method is inconvenient in that it creates the conditions for shippers to ask, at each round, for the maximum available capacity without taking any excessive risks of over-allocation. The implementation of such a method could thus lead to an under-optimal allocation that would not reflect the genuine needs of each shipper.

CRE considers that feedback from experiences of allocations carried out over the period from April 1<sup>st</sup>, 2010 to March 31<sup>st</sup>, 2011, based on allocation rules implementing two balanced stages with the guaranteed allocation option and a ceiling of 1,5 GWh/d, has been positive. Indeed, a balanced distribution between shippers having exercised the option and those not having exercised it has shown that setting the maximum level of guaranteed allocation at 1,5 GWh/d is appropriate. On top of this, increasing the level of guaranteed allocation (2 GWh/d) would lead, if there was a lot of demand, to reducing the firmness of the product proposed by applying a pro rata distribution. Moreover, the balanced dimensioning of the two allocation stages seems appropriate insofar as it ensures, in particular, a proportionate distribution of shippers exercising the « guaranteed allocation » option and those not.

Taking all these factors into account, CRE is in favour of implementing the rules proposed by GRTgaz concerning the annual capacity, with the exception of the maximum level of guaranteed allocation which has to be maintained at the previously selected level, i.e. 1.5 GWh/d.

### *3.3.4. Implementation of an allocation of multiyear capacity on a pro rata-based mechanism, in several successive rounds*

GRTgaz’s proposal is described in point 2.2. above.

In response to the public consultation, a very large majority of contributors are in favour of applying the rules proposed by GRTgaz for selling multiyear capacity in successive rounds. However, some industrial clients would prefer the implementation of a pro rata-based allocation method, with a guaranteed allocation option like that which was proposed by GRTgaz for annual capacity.

CRE considers that the method consisting of allocating in two stages with the guaranteed allocation option is not adapted to the limited volumes sold as multiyear capacity. On the other hand, it considers

that the introduction of several rounds by maturity, in this case, is likely to improve visibility of the sales procedure.

As a result, CRE is in favour of implementing the rules proposed by GRTgaz concerning multiyear capacity.

### *3.3.5. Sales method for available capacity on November 1st, 2011*

As of November 1st, 2011, 10 GWh/d of firm capacity and 15 GWh/d of interruptible capacity will also be offered on the market, due to the expiry of a transit contract mentioned in point 1.2. above.

In compliance with allocation rules in force, this capacity should be offered to the market as multiyear capacity of 2, 3 and 4 years, shared out into three thirds over 2011. One of the contributors to the public consultation observed that GRTgaz's proposal concerning capacity starting on November 1<sup>st</sup>, 2011 would lead to sell new products of multiyear capacity which would not be phased with the current schedule for selling annual capacity, starting on April 1<sup>st</sup>. This sale, if it were to be implemented according to current rules, would thus lead to breaking up the offer of capacity on the North to South link. Moreover, ERGEG's framework guidelines concerning allocations of transmission capacity at interconnections recommend a standardisation of capacity products and a limitation of their numbers.

CRE is in favour of scheduling the sale of capacity made available by November 1<sup>st</sup>, 2011 to start off on April 1<sup>st</sup>, 2012. To this effect, it would like, exceptionally, for a seasonal capacity product to be created, lasting 5 months from November 1<sup>st</sup>, 2011 to March 31<sup>st</sup>, 2012, and which would be sold according to the rule proposed by GRTgaz for multiyear capacity (on a pro rata basis, in successive rounds). The capacity made available from April 1<sup>st</sup>, 2012 will increase the reserves of firm and interruptible multiyear capacity of 2, 3 and 4 years, offered on the market as from that date.

### *3.3.6. Publication of information intended to improve visibility*

GRTgaz's proposal of allocation rules introduces the concept of communication of information to participants throughout the allocation process: the total volume of capacity required and the number of allocation requests received would thus be transmitted at the end of each marketing stage to the participants. A large majority of contributors to the consultation are in favour of GRTgaz's proposal. However, some players consider that the number of participants should be published before each allocation in order to maximise visibility of the process.

CRE considers that the publication of this information for participants at the end of each marketing stage is likely to improve visibility of the process. It is thus in favour of publishing information, as proposed by GRTgaz. On the other hand, publishing reliable information on the number of participants prior to each allocation implies organising a binding procedure of declaration of participation in the days preceding each allocation. Given the already tight schedule of the process, CRE is not in favour of such a measure.

### *3.3.7. Maintaining the current rules for selling capacity at the South to North link of GRTgaz and at the interconnection between TIGF and GRTgaz*

Consultation work has not highlighted any difficulties relating to the allocation of capacity at the interconnection between the South zone of GRTgaz and the balancing zone of TIGF, or at the South to North link of GRTgaz's balancing zones. All contributors to the public consultation are in favour of maintaining the current marketing rules concerning the above-mentioned capacity.

CRE is in favour of maintaining the current rules for selling capacity at the interconnection between the South zone of GRTgaz and the balancing zone of TIGF, as well as at the South to North link of the GRTgaz balancing zones.



### 3.3.8. Sales schedule for capacity offered on the market at the North-South link and at the GRTgaz-TIGF interconnection

The sales schedule proposed by GRTgaz makes it possible to proceed with capacity allocations on the North to South link whilst staying consistent with current schedules for selling the capacity at the South to North link of GRTgaz as well as at the interconnection between TIGF and GRTgaz in both directions. All shippers were in favour of the sales schedule proposed at the link in the North to South direction. Some industrial customers did, however, consider that the proposed dates are too late on in the year. Moreover, nearly all contributors were in favour of maintaining the current sales schedule at the South to North link as well as at the interconnection between GRTgaz and TIGF.

As a result, CRE is in favour of the sales schedule proposed by GRTgaz for the capacity at the link in the North to South direction, which is consistent with maintaining the current sales schedules in force at the South to North link as well as at the interconnection between GRTgaz and TIGF.

## 4. CRE's decision

CRE makes the following amendments to the rules for allocating transmission capacity at the link of the North and South balancing zones which were submitted by GRTgaz on May 25<sup>th</sup>, 2010:

- Article 4.3 of the allocation rule needs to be modified to specify that the maximum level of guaranteed allocation is fixed at 1.5 GWh/d.
- The capacity available for sale as of November 1<sup>st</sup>, 2011 due to the expiry of a transit contract will increase the firm and interruptible multiyear capacity of 2, 3 and 4 years on sale as of April 1<sup>st</sup>, 2012. This same capacity will exceptionally be offered on the market as a product of temporary capacity, lasting 5 months from November 1<sup>st</sup>, 2011 to March 31<sup>st</sup>, 2012. The rule for pro rata-based allocation in several successive rounds applied to multiyear capacity also applies to allocations of this 5-month capacity according to the schedule defined in GRTgaz's proposal.

The present deliberation will be published in the *Journal officiel* of the French Republic.

Paris, July 8<sup>th</sup>, 2010

For the Commission de régulation de l'énergie,

The Chairman,

Philippe de Ladoucette