

Deliberation of the French Energy Regulatory Commission (CRE) of 23 October 2012 bringing partial withdrawal of the decision of 4 October 2012 relating to the rules for the sale of transmission capacity at the link between GRTgaz's North and South zones and at the interface between GRTgaz and TIGF

Present: Philippe de LADOUCKETTE, Chairman, Olivier CHALLAN BELVAL, Frédéric GONAND, Jean-Christophe LE DUIGOU and Michel THIOLLIERE, Commissioners.

In its deliberation of 4 October 2012, the CRE defined, at the suggestion of GRTgaz, the rules for selling available transmission capacities at the link between GRTgaz's North and South zones and at the interface between GRTgaz and TIGF from 1 April 2013.

In a letter dated 11 October 2012, GDF Suez sent an informal appeal to the CRE against the abovementioned deliberation.

The CRE held a hearing for GDF Suez on 17 October 2012.

1. Informal appeal by GDF Suez

GDF Suez asks the CRE to revoke its decision of 4 October 2012.

GDF requests that available transmission capacity at the link between the North and South GRTgaz zones be auctioned from 1 April 2013. If it is manifestly not possible to implement this system of allocation, GDF Suez asks the CRE to issue a new deliberation to modify the phase one guaranteed allocation mechanism, revising the pro rata allocation procedure for phase two.

1.1 Modifications to phase one based on a guaranteed allocation mechanism

GDF Suez asks for the new deliberation by CRE:

- to restrict the upper limit for individual applications to 1.5 GWh/d instead of 2.5 GWh/d;
- to restrict the portion allocated to this phase to 23 GWh/d instead of 49.4 GWh/d;
- to include an *ex-ante* control mechanism to identify the needs of applicants.

1.2 Modifications to phase two of pro rata allocation

GDF Suez requests that the balance of capacity (i.e. a minimum of 76 GWh/d be allocated across the shippers according to a system of needs-based allocation, pro rata to their portfolios of "protected" end customers in the South zone, i.e., in its opinion, all customers connected to the distribution network.

GDF Suez suggests that a coefficient-based system be implemented for small shippers to take account of any growth in their customer portfolios in the subscription period.

1.3 The main arguments put forward by GDF Suez

GDF Suez bases its request on four principal arguments:

- the decision of the CRE would contravene legislative and regulatory obligations in that it would lead to the implementation of a system for allocating capacity that was not of optimum quality;
- the decision will increase the cost of transport capacity at the North-South link because customers will be forced to pay their supplier a price including a congestion fee;
- the decision of the CRE would ignore the principles of non-discrimination and equal treatment by not treating shippers in varying situations differently;
- the implementation of this decision would affect physical supply at the South zone.

When the CRE interviewed GDF Suez on 17 October, GDF Suez stated its concern as to the possibility of meeting the public service obligations incumbent upon it under reasonable economic and technical conditions, particularly in terms of supplying its customers located in the South zone.

2. CRE analysis

Contrary to what is said by GDF Suez, the CRE considers that the system of allocation adopted on 4 October 2012 follows the principle of non-discrimination and equality.

The CRE mentioned in its deliberation of 4 October 2012 that pro rata allocation was not the optimum system where there is congestion, and indicated that, in such circumstances, it is preferable to allocate capacity at a price corresponding to its value i.e. through an auction mechanism. In such a case, the congestion fee is fully captured by the gas transmission operator (GTO). Given that the income of the GTO is regulated, such surplus revenue is redistributed to network users according to a mechanism defined by the regulator. The CRE notes that the tariff framework currently in force (ATRT4) does not permit early implementation of an auction mechanism, and that, given the prevailing decision-making procedure, a decision on tariffs may not be made before the beginning of 2013. It is therefore impossible to implement auctioning for capacities beginning on 1 April 2013.

The CRE considers that the allocation mechanism determined by its decision of 4 October 2012 will not alter the flow of gas between the North and South zones. In fact, the procedure for distributing capacity at the North-South link across the various market players does not affect the use of such capacity. The rules for GRTgaz making capacity available enable full use by the latter where market conditions require it (secondary capacity market, gas exchanges and geographical North-South swaps, short term use it or lose it (UIOLO) procedure).

Moreover, all shippers have the option to intervene at PEG South and TIGF and to book regasification capacity at the Fos Tonkin and Fos Cavaou LNG terminals.

As a consequence, the CRE considers that the argument put forward by GDF Suez relating to the problem of physical supply in the South zone has not been demonstrated.

However, the allocation mechanism determined by the decision of 4 October 2012 may, in the current context of a persistent elevated level of North-South *spread*, affect the smooth operation of the markets, exposing suppliers with commitments to deliver in the South and TIGF zones to major unforeseeable economic variables. In fact, suppliers who, after allocation, would obtain a portion of capacity significantly lower than their delivery commitments to end customers, would be forced to call on more onerous and/or uncertain alternative means of supply (PEG South, secondary capacity market, Fos terminals, UIOLI CT). This could give rise to an increase in gas prices for end consumers in the South of France.

As a consequence, whilst waiting for the implementation of auctioning from 1 April 2014, the CRE considers that, in the interest of the end consumer, it is a good idea to introduce rules for allocation taking account of the provisional physical delivery commitments of shippers applying for capacity.

3. Decision of the CRE

The deliberation of 4 October 2012 is upheld with regard to the rules for the sale of capacity at the GRTgaz-TIGF interface and the implementation of a “coordinated” monthly capacity service at the PITTM Fos and the South toNorth link.

The CRE decides to partially revoke its decision of 4 October 2012 for determining the rules for the sale of annual capacity at the North-South link from 1 April 2013. The CRE will determine new rules for allocation next to the results of public consultation (see annex).

This deliberation will be published in the Official Journal of the French Republic.

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For the Commission de régulation de l'énergie
Chairman,

Philippe de LADOUCETTE