Deliberation

Deliberation of the French Energy Regulatory Commission (CRE) dated 13 December 2012 deciding on the tariff for the use of regulated LNG terminals

Attending the meeting: Philippe de Ladoucette President, Olivier CHALLAN BELVAL, Frédéric GONAND, Jean-Christophe LE DUIGOU and Michel THIOLLIERE, Commissioners.

The French Order dated 20 October 2009 issued upon the French Energy Regulatory Commission's (CRE) tariff proposal sets the tariffs for the use of LNG terminals. These tariffs entered into force on 1 January 2010 for the Fos Tonkin and Montoir-de-Bretagne terminals, operated by Elengy, and on 1 April 2010 for the Fos Cavaou terminal, operated by Fosmax LNG, the date on which it was put into commercial operation.

The French Energy Code, which entered into force on 1 June 2011, introduced a new legal framework modifying the powers of CRE in terms of setting the tariff for the use of gas infrastructures.

Articles L.452-2 and L.452-3 of the French Energy Code specify the powers attributed to CRE in the area of tariff. Thus, article L.452-2 of the Code specifies that CRE stipulates the methodologies to be used for establishing the tariffs for use of liquefied natural gas (LNG) facilities. In addition, article L.452-3 states that *"The Energy Regulatory Commission (CRE) debates and decides on tariff developments […] with, where appropriate, modifications to tariff levels and structures which it deems justified following, notably, an analysis of the operators' accounts and any expected changes in operating costs or investment levels. […] The Energy Regulatory Commission submits to the appropriate ministries concerned with energy and the economy its reasoned recommendations concerning evolutions in the level and structure of tariffs for using the natural gas transmission network, for using the natural gas distribution network, and for the use of liquefied natural gas facilities, […] as well as tariff rules and their dates of entry into force. These deliberations are published in the 'Journal officiel de la République française' (Official Journal of the French Republic)."*

In the deliberation dated 28 June 2012, based on the aforementioned articles and following the advisory opinion of the Conseil supérieur de l'énergie (CSE), CRE extended the tariffs for the use of LNG terminals operated by Elengy until 31 March 2013.

In this deliberation, CRE defines the methodology and sets the tariffs for the use of regulated LNG terminals (hereafter "ATTM4"), for application as of 1 April 2013 for approximately four years.

As part of the work with regard to CRE's definition of these new tariffs, Elengy and Fosmax LNG requested in letters dated 14 and 15 June 2012 respectively that CRE set new tariffs for the LNG terminals they operate. The operators' final requests resulted in the following changes:

- For the Montoir terminal, a 13% increase of the average unit tariff for the ATTM4 period, in current Euros,
- For the Fos Tonkin terminal, a 15% increase of the average unit tariff for the first two years of the ATTM4 period, in current Euros,
- For the Fos Cavaou terminal, a 24% increase of the average unit tariff for the ATTM4 period, in current Euros.

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In order to set these new tariffs, CRE:

- Conducted in-depth analyses of the projected costs presented by the operators and entrusted an external firm with the task of auditing the operating costs,
- Met with the LNG terminal operators several times,
- Organised a public consultation from 20 July to 14 September 2012.

On the basis of all these points, CRE has renewed and supplemented the existing regulation framework, encouraging the operators to improve their efficiency in terms of cost control. The duration of the tariffs has been extended to approximately four years. An investment project cost control incentive has been introduced, as has a revision clause at the end of the first two years, aimed at an upward or downward adjustment of the trajectory of the operators' net operating expenses for 2015 and 2016. The tariff for the Fos Tonkin terminal is set for approximately two years, in order to take into account the decision, if the case may be, to extend the operation of the facility at the end of 2014.

As regards tariff structure, the main changes concern the increase in the ship or pay payment obligation for capacity subscribed (to 100%) and a moderate increase in the unloading tariffs to reflect the operators' cost structures more appropriately. CRE has also modified some of the characteristics of the services marketed by the operators, in order to take account of the proposals resulting from the "*Concertation GNL*" working group.

With regard to operators' tariff levels, CRE has selected:

- For the Montoir terminal, a 4% increase of the average unit tariff for the ATTM4 period, in current Euros,
- For the Fos Tonkin terminal, a 10% increase of the average unit tariff for the first two years of the ATTM4 period, in current Euros,
- For the Fos Cavaou terminal, a 12% of the average unit tariff for the ATTM4 period, in current Euros.

The difference between the tariff levels set by CRE and the operators' requests are mainly due to the following points:

- The weighted average cost of capital set at 6.50% in real terms before taxes,
- The continuation of the bonus specific to the operation of LNG terminals at its current level, i.e. 200 basis points,
- The revision of approved estimates with regard to some expense items (energy purchases highly dependent on the rate of use of subscribed capacity and management fees charged by the GDF Suez group to operators, in particular).

The approved increases for the next tariff period can be explained in particular by:

- A drop in capacity subscriptions on the three terminals. For Fos Cavaou, this drop is related to the non-subscription of short-term capacity. For the Fos Tonkin terminal, it is due to the decrease in the terminal's technical capacity from 5.5 Bcm to 3 Bcm as of the end of 2014. For the Montoir terminal, it follows the non-subscription of some of the capacity released by GDF Suez as part of its commitments to the European Commission,
- An increase in some operating expenses, in particular with the entry into force of the flat-rate tax on network businesses (*Imposition forfaitaire sur les entreprises de réseaux* - IFER) for the three terminals and, for the Fos Cavaou terminal, the application of a margin on the services provided by Elengy, in accordance with European fiscal standards.

These increases shall be partially offset by the following main factors:

- The decrease in the weighted average cost of capital from 7.25% to 6.50%,
- The increase in ship or pay from 95% to 100%,

This comes together with a drop in the deduction for gas in kind, from 0.3% to 0.2% for the Fos Tonkin terminal and from 0.5% to 0.2% for the Fos Cavaou terminal.

	Montoir-de-Bretagne	**Fos Tonkin**	**Fos Cavaou**
Contributing factors			
Operating expenses	6%	6%	6%
Capital costs	5%	8%	- 4%
Of which the impact of the WACC	*-2%*	*-2%*	*- 4%*
Variation of subscription volumes	- 3%	5%	7%
Clearing of the CRCP	-4%	-10%	3%

The Higher Energy Council (CSE), consulted by CRE on the tariff decision draft, gave an advice opinion on 11 December 2012.

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METHODOLOGY

I. Regulatory framework

Article L.452-3 of the French Energy Code stipulates that the CRE deliberations ruling on tariffs for use of liquefied natural gas (LNG) facilities "[…] *may make provision for a tariff review framework covering several years together with appropriate short- or long-term incentives to encourage operators to improve their performance particularly as regards the quality of service provided […] and finding productivity improvements*".

1. Tariff individualisation for each LNG terminal

The French Order dated 20 October 2009 approving the tariffs for the use of LNG terminals introduced an individualised tariff for each terminal, to take into account the specific characteristics and conditions of each facility. Given the uncertainty surrounding the long-term extension of operations at the Fos Tonkin terminal and the recent commissioning of the Fos Cavaou terminal, this principle has been renewed for the ATTM4 period.

2. Tariff duration

The tariffs, defined by the French Order dated 20 October 2009 (hereafter "ATTM3") and extended by CRE's decision dated 28 June 2012, are applicable until 31 March 2013. This tariff decision includes the ATTM4 tariffs for Elengy and Fosmax LNG for the three regulated LNG terminals. These tariffs are set to apply as of 1 April 2013, for a period of approximately four years. A new tariff structure for Fos Tonkin terminal will be set as of 1 April 2015, in regards the final decision of the operator to extend or not this facility beyond 2020.

3. Principles for calculating the return on assets and investment incentives

The principles for calculating the return on assets are set for approximately four years for the two operators. They include in particular:

- The rules and conditions for calculating capital expenses, including the Weighted Average Cost of Capital (WACC) and the bonus specific to the operation of LNG terminals,
- The incentive mechanism for the development of new regasification capacity,
- The incentive mechanism for the control of investment project costs.

4. Incentive-based regulation of the development of new regasification capacity and the control of investment project costs

4.1. Incentive-based regulation of the development of new regasification capacity

CRE has renewed the mechanism set out in the ATTM3 tariffs, without extending it to projects to increase LNG storage capacity, as requested by the operators.

4.2. Incentive-based regulation of the control of investment project costs

Article L.452-1 of the French Energy Code stipulates that the tariffs for use of LNG facilities must cover all the costs borne by the operators, insofar as such costs correspond to those of an efficient LNG facility operator. CRE has set up an incentive mechanism to encourage the LNG terminal operators to control the costs of their investment projects.

With regard to the project to extend the operation of the Fos Tonkin terminal, CRE set out, in its deliberation dated 7 July 2011, an incentive-based regulation system for the control of the costs of this investment.

A similar incentive-based regulation mechanism is introduced for the projects decided over the ATTM4 period that are covered by the incentive-based regulation mechanism for the development of new regasification capacity or for amounts exceeding €20 million.

In order to take into account the specific factors of each project, only the principles of this mechanism have been set in this decision:

- For projects covered by the incentive-based regulation mechanism for the development of new regasification capacity, the application of the bonus for ten years is limited to the projected investment budget,
- Investment spending that differs from the projected budget is remunerated according to the level of these variances,
- The return on assets in progress is suspended after the investment's provisional date of commissioning,
- For projects involving market tenders, an exit clause may be introduced for subscribers, exercisable in the event of a considerable overrun of the initial investment sum projected further to in-depth studies, provided that any stranded costs generated by this clause are covered.

CRE shall set out the detailed mechanism applicable to each project concerned in future deliberations.

5. Expenses and revenues clawback account (CRCP)

The CRCP is a non-ledger trust account which is credited at regular intervals by all or a part of the differences in cost or revenue recorded for predefined items. The reconciliation of the balance of this account is performed by reducing or increasing the income to be collected via the tariffs.

In order to ensure financial neutrality of the mechanism, the amounts taken into account in the CRCP are adjusted to present value using an interest rate equivalent to the risk-free rate used in this tariff decision. This rate is set at 4.0% per year, nominally, before tax.

For this tariff decision, the expense and income items covered by the mechanism are as follows:

- revenues associated with additional subscriptions for regasification capacity, covered 75%, in order to incite operators to provide the best services to potential customers,
- capital costs borne by the operators, covered 100%,
- expenses and income related to power sources (electricity and CO_2 quotas) covered 90%,
- revenues associated with additional subscriptions under the tanker loading service, covered 50% by the CRCP,
- revenues associated with the access service at the LNG exchange point, covered 50% by the CRCP.

Where necessary, the application of the CRCP will be accompanied by checks to ascertain the efficiency of the expenses incurred. These checks could concern, in particular, the investments made by operators and energy costs. The financial consequences of these audits will be taken into account in the CRCP.

6. .Revision clause

For the Montoir and Fos Cavaou terminals, this tariff decision introduces a revision clause that can be activated half-way through the tariff period by CRE.

This revision clause stipulates that any consequences of new legislative or regulatory provisions, and of rulings of courts or quasi-judicial bodies may be examined if the level of net operating expenses decided in Elengy's and Fosmax LNG's tariffs changes by at least 1%. The trajectory of operating expenses to be covered by the tariff may be reviewed by CRE following such a study. The financial consequences caused by these external developments will only be considered for the period following the implementation of this revision clause, provided that they correspond to efficient management by the operator.

7. Provisions for the definition of tariff structures applicable as of 1 April 2013

For the Montoir and Fos Cavaou terminals, CRE sets an average tariff applicable for the entire ATTM4 tariff period. This tariff is based on the average:

- Of authorised revenues approved by CRE for the period from 2013 to 2016 for each of the LNG terminals,
- Of regasification capacity subscriptions approved by CRE for the period from 2013 to 2016 for each of the LNG terminals.

For the Fos Tonkin terminal, CRE sets an average tariff applicable for the first two years of the ATTM4 tariff period as of 1 April 2013. This tariff is based on the average of the authorised revenue and the average of regasification capacity subscriptions approved by CRE for this period.

8. Changes to tariff structures half-way through the tariff period

This tariff decision introduces a revision as at 1 April 2015 of the two operators' tariff structures.

For the Montoir and Fos Cavaou terminals, this revision shall be conducted according to the following principles:

- updating of capacity subscription estimates,
- updating of energy costs,
- acknowledgement of any financial consequences under the revision clause,
- updating of the rate of gas in kind off-takes, taking into account actual figures,
- reconciliation of the CRCP balance for the 2013-2014 period,
- updating of the tariff structure and services, in particular to take into account development proposals resulting from the "Concertation GNL" working group.

For the Fos Tonkin terminal, this revision shall take into account all costs to be covered and subscription estimates.

II. Tariff Level

1. Operating expenses

Article L.452-1 of the French Energy Code stipulates that "*tariffs for use of […] liquefied natural gas facilities, […], are established in a transparent and non-discriminatory way in order to cover all the costs borne by these operators, insofar as such costs correspond to those of an efficient facilities or system operator. […]. Such costs include in particular the operating and research and development expenses necessary for safety […].*"

In accordance with the provisions of this article, the operating expenses to be covered by the tariffs have been determined on the basis of all operating costs necessary to run the LNG facilities, as submitted to CRE and as they appear in the operators' accounts.

CRE based its setting of the level of these costs in particular on:

- Data from Elengy's and Fosmax LNG's corporate accounts for the years 2010 and 2011,
- Projections regarding changes to costs for the years 2012 to 2016 as submitted by the operators,
- The results of the audits and analyses conducted on the operators' operating expenses for the years 2010 to 2016.

The operating expense items that are subject to the main changes by CRE are described hereafter.

1.1. Energy purchase

The energy costs for the three regulated LNG terminals (largely for the purchase of electricity to power the pumps in the LNG regasification system) are included in the operating expenses covered by the tariff.

Current €m	2013	2014	2015	2016
Montoir de Bretagne	3,3	3,5	3,1	3,4
Fos Tonkin	2,1	2,2	-	-
Fos Cavaou	4,8	4,7	4,9	4,6

The expenses considered for the next tariff period are based on electricity and CO2 price estimates, and on the following estimates on the use of capacity at each terminal:

Use rate (%)	2013
Montoir de Bretagne	50 %
Fos Tonkin	75 %
Fos Cavaou	70 %

CRE has adjusted the rates of use estimated by the operators downwards in order to take into account the rates of use in 2011 and the current situation on the LNG market which is not favourable to the arrival of LNG in Europe.

During the mid-term revision, the energy cost trajectories selected in this tariff decision will be reviewed.

1.2. Overheads paid by Elengy and Fosmax LNG

Overheads (or central costs) comprise charges in relation to the special status of France's electricity and gas industry employees, and head office charges (or management fees).

With regard to management fees, CRE notes that they must correspond to services that are actually provided by the parent company to its subsidiaries. This is why CRE believes that with the exception of costs that are strictly related to audit and risk and financial communication functions, management fees should be replaced by 2015 by direct service contracts commensurate with the operators' needs.

Consequently, CRE has selected for the ATTM4 a level of management fees to the tune of €3.4 M in 2013 and 2014, i.e. a 25% decrease compared to the overall request of the two operators. This level is reduced by €1.1 M as of 2015, i.e. a 50% decrease compared to the operators' request.

The operators shall submit to CRE in mid-2014 the direct service contracts signed with the parent company. These contracts may be subject to an audit in order to ensure that the costs concerned correspond to those of an efficient operator. Audit results will be considered in the CRCP.

Current €m	2013	2014	2015	2016
Total request of the two operators	4.5	4.6	4.6	4.7
Approved amounts	3.4	3.4	2.3	2.4

1.3. Margin for services charged to Fosmax LNG by Elengy

The operational management of Fosmax LNG's terminal has been entrusted by contract to Elengy. Elengy's billing of these services includes a margin. CRE has reduced the level of margin requested by Elengy, in line with the practices in force[1].

In addition, CRE has not approved a margin for the purchase of electricity. It believes that Fosmax LNG is able to manage its own electricity purchases, without using an intra-group management contract, insofar as it enjoys a regulated sale tariff.

These changes result in a decrease in operating expenses for Fosmax LNG and an increase in Elengy's operating expenses.

The amounts of these changes are as follows:

Current €m	2013	2014	2015	2016
Montoir de Bretagne	+0.56	+0.61	+0.64	+0.66
Fos Tonkin	+0.22	+0.22	+0.21	+0.22
Fos Cavaou	-0.78	-0.83	-0.84	-0.88

1.4. Provision for decommissioning

Since 2003, infrastructure operators have been required to recognize provisions in their accounts for restoring sites. The costs covered by the tariff include contributions to provisions based on estimated dates and costs of decommissioning the LNG terminals supplied by the operators.

The level of coverage of these provisions by the tariff for the decommissioning of the Fos Tonkin terminal has been adjusted upwards in order to take into account the assumption of operations ceasing at the terminal in 2020.

The level of coverage of these provisions by the tariff for the decommissioning of the Montoir and Fos Cavaou terminals remains unchanged from the ATTM3 tariff.

1.5. Tax

The consideration of changes to taxation in Elengy's and Fosmax LNG's projected operating expenses trajectories has led to increases of these items by €6 M (+ 32%) and €5 M (+ 45%) respectively for the next tariff period. These increases are mainly related to the entry into force of the flat-rate tax on network businesses (IFER) and the end of the exonerations that Fosmax LNG enjoyed for the first two years of

[1] COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL AND THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE on the work of the EU Joint Transfer Pricing Forum in the period April 2009 to June 2010 and related proposals 1. Guidelines on low value adding intra-group services and 2. Potential approaches to non-EU triangular cases.

operation at Fos Cavaou.

1.6. Other expense items

Following the external audits and analyses conducted by CRE, some items have been adjusted downwards as follows. These adjustments mainly concern the insurance fees related to the coverage of operating losses for the three terminals, and the costs of studies with regard to the project to develop capacity at the Fos Cavaou terminal.

Current €m	2013	2014	2015	2016
Montoir de Bretagne	0.86	0.87	0.94	1.03
Fos Tonkin	0.51	0.53	0.51	0.55
Fos Cavaou	2.56	2.07	1.07	1.16

1.7. Summary

The adjustments approved by CRE for the operating expenses of the three terminals are as follows:

Current €m	2013	2014	2015	2016
Fos Tonkin	0.6	0.6	0.8	0.8
Montoir	2.1	2.2	2.8	2.9
Fos Cavaou	4.2	3.8	3.2	3.4

2. Capital costs

Capital costs include depreciation plus the financial return on capital assets. These two components are calculated based on the valuation of the Regulated Assets Base (RAB) and the weighted average cost of capital.

2.1. Regulated Assets Base

For the Fos Tonkin and Montoir terminals, CRE revalued the operator’s historical assets on 31 December 2002. It used a method of the type “current economic costs” comparable to the method for transmission assets used by the special Commission set up under Article 81 of the French rectifying Finance Law (*loi de finances rectificative*) dated 28 December 2001 to determine the transfer price for the State’s natural-gas transmission networks.

For Fos Cavaou terminal, the RAB includes investments plus the operating and financial costs incurred prior to commissioning. The terminal’s official commissioning date for the tariff is the actual commissioning date, i.e. 1 April 2010.

CRE has renewed the principles for the calculation of capital costs adopted for the previous tariff periods. It has, however, modified its appraisal of the weighted average cost of capital for the terminals’ operations.

For the Montoir and Fos Cavaou terminals, the lifetimes used for the main categories of industrial assets are defined in the following table:

Categories of industrial assets	Useful life (years)
Regasification facilities	40
Civil engineering and construction	40
Storage facilities	40
Other plant (flares, tools, etc.)	40
Auxiliary facilities and unloading systems	20
Equipment (remote operation, gas quality analyzer, etc.)	10
Property	30
Sundry equipment (vehicles, etc.)	10
Small items (PCs, etc.)	5

For the Fos Tonkin terminal, in accordance with the CRE deliberation dated 7 July 2011, the duration of depreciation has been adapted to take into account a potential decommissioning of the terminal in 2020. In the event of a decision to extend the terminal's operations, set to be taken at the end of 2014, the lifetimes of the assets would be reviewed accordingly.

Assets employed before 31 December 2002 are valued by means of adjusting the historical cost for inflation, using the following method:

- historic gross asset values are restated for the revaluation variances permitted in 1976, subsidies received in respect of carrying out these investments, and contributions received from the beneficiaries of these investments,
- these restated gross values are adjusted as at 31 December 2002 by applying the "market-sector GDP" price index,
- these adjusted gross values are then depreciated using the straight-line method on the basis of the economic lifespan of the various asset categories. Assets are deemed to have become operational on 1 July of the relevant year.

Some asset categories receive special treatment:

- vehicles, fittings, micro-computing hardware, minor equipment, etc. are included on the basis of their net book value.

Assets commissioned between 1 January 2003 and 31 December 2012 are included in the RAB at their gross value[2]. The investments planned as of 1 January 2013 are considered at their forecast gross value as submitted by Elengy and Fosmax LNG.

The nominal date on which assets enter the inventory has been set at 1 July each year, and they are removed on 30 June. Only assets in operational use are included within the RAB.

Once assets are included within the RAB, their value is updated using the following method:

- assets are re-valued on 1 January each year using the rate of inflation for the period July to July. The index used to update values is the INSEE (French national statistics office) index 641194 for consumer prices excluding tobacco for the whole of France;

[2] Assets brought into operational use between 1 January 2012 and 31 December 2012 are included in the RAB at their forecast gross value.

- assets are depreciated using the straight-line method on the basis of their economic lifespan. The lifespans used for asset depreciation after 31 December 2002 are identical to those used to adjust the value of assets brought into operational use prior to that date.

Some asset categories receive special treatment:

- vehicles, fittings, micro-computing hardware, minor equipment, etc. are not re-valued.

On 1 January 2013, the value of the RAB for the Montoir, Fos Tonkin and Fos Cavaou terminals is €315M, €122M and €810M respectively.

2.2. Cost of capital

The method adopted to evaluate the rate of return on assets is based on the weighted average cost of capital (WACC), for a standard financial structure. The operator's return should, in fact, firstly enable it to service the interest payments on its borrowing, and secondly generate a yield on shareholders' equity comparable to that which it could obtain from investments elsewhere entailing a comparable level of risk.

This cost of capital is estimated using the methodology known as the capital asset pricing model (CAPM).

CRE bases its calculations on the cost of capital for gas transmissions in order to estimate the cost of capital for LNG terminals, given the lack of appropriate comparable samples to define the main parameters for the operation of LNG terminals.

To define the WACC, CRE has reassessed the various parameters used in its calculations and the resulting ranges of values. It has also:

- Entrusted a study to an external consultant on the weighted average cost of capital for electricity and gas infrastructure, conducted in the summer of 2011,
- Regularly conducted internal assessments of the cost of capital parameters,
- Held meetings with the terminal operators and their shareholders upon request,
- Considered changes to the tariff framework.

Estimates for each of these parameters are shown in the table below:

Real risk-free rate*	2.0%
Debt spread	0.6%
Market premium	5.0%
Asset beta	0.58
Equity beta	0.96
Gearing (debt / debt + equity)	50%
Corporation tax rate	34.43%
Cost of debt**	2.6%
Cost of equity**	10.4%
Real WACC before corporation tax	**6.50%**

** i.e. assumed nominal risk-free rate of 4.0%*

***real before corporation tax*

A specific increase of 200 basis points is applied to this basic rate in order to take into account the risks inherent to the operation of LNG terminals in comparison to network operations. LNG terminals are facilities concentrated on a single site, do not operate as a monopoly and are dependent on a limited number of customers. In the event of a technical fault or accident making all or part of the facility unavailable, or the default of a subscriber of capacity, there is a risk of considerable income loss that cannot be offset by other facilities or customers. In addition, the operation of each site in the very long-term, following the subscription contracts for capacity currently in the portfolio, is not guaranteed.

Assets scrapped before the end of their economic lifetime are written out of the RAB without giving rise to either depreciation or a financial return.

2.3. Investment programmes

The calculation of RAB valuation and capital costs for the ATTM4 period includes investment forecasts provided by the operators and revised by CRE.

The investments made in 2010, 2011 and estimated for 2012 and the investment forecasts for the 2013-2016 period used to calculate capital costs are as follows:

Current €m	Made		Estimated	Forecasts			
	2010	2011	2012	2013	2014	2015	2016
Montoir de Bretagne	48.2	40.4	23.7	22.1	21.1	4.3	4.3
Fos Tonkin(*)	9.7	6.0	8.5	16.1	8.8	18.4	39.5
Fos Cavaou	0.1	2.4	3.8	3.5	2.8	2.0	2.0

(*) The increase in projected investment amounts as of 2013 accounts for projects by 2020 and by 2035.

CRE has approved the investment trajectories submitted by Elengy for the Montoir and Fos Tonkin terminals, with the exception of investment spending in connection with the Montoir-de-Bretagne terminal extension project, scheduled for 2015 and 2016. No investment decision has been taken to date on this project. CRE has approved all investment forecasts submitted by Fosmax LNG.

CRE reminds that any variances between the above investment forecasts and the costs calculated on the basis of actual elements will be entirely covered by the CRCP mechanism, subject to the outcome of audits and the effects of the incentive mechanisms to control investment project costs.

2.4. Incentive-based regulation of the development of new regasification capacity

CRE has modified the ATTM3 tariff rules for investment incentives, so that incentives are better focused.

To provide the visibility required for investment decisions and long-term commitments, CRE has carried over into the ATTM4 tariffs the rules set out in the ATTM3 tariffs:

- the method of calculating the rate of return is fixed for 20 years. The rate is equal to the base rate applicable to natural-gas transmission assets (which may change during the period depending on future tariff decisions relating to transportation over the gas transmission networks), plus the additional 200 basis points specific to LNG,
- an additional bonus of 200 basis points is awarded for the next 10 years.

These rules apply to extensions to existing LNG terminals (as long as the increase in regasification capacity represents at least 20% of the infrastructure's initial capacity) and to new terminals that are agreed after these tariffs come into force. Newly created capacity must be allocated using rules previously approved by CRE. Projects specifically designed to increase the terminals' storage capacity are not eligible for this additional bonus.

In addition, the investment incentive bonuses in force in the previous tariffs continue to apply in the ATTM4 tariff, namely the bonus of 125 basis points for all investments rolled out between 2004 and 2008 and for all investments decided between 1 January 2004 and 31 December 2008.

2.5. *Return on the financial cost of investments in the pre-operational phase*

CRE has renewed the return on the amount representing assets in progress.

In calculating the return, 1 July of each year is considered as the standard date on which the investment expenditures are carried out. The return on fixed assets in progress is determined using the methodology generally used for interest during construction. It is based on an interest rate comparable to the cost of debt (a nominal pre-tax rate of 4.6%) plus the bonus specific to the activity of operating LNG terminals (200 basis points). This return is included in the tariff and is one of the capital costs included in the CRCP.

2.6. *Exchanges of thermal energy with Air Liquide*

As part of an agreement between Air Liquide and Elengy, the two companies have exchanged fluids and energy on their Fos Tonkin sites since 1970. In 2009, Elengy and Air Liquide decided to extend their partnership in a new 15-year contract, and as a result, Elengy invested in a new heat exchanger (EC 20) in the same year.

This specific asset is not necessary for the LNG regasification function, but brings about synergies for both companies that are both economically and environmentally positive. The recycling of cold sources limits their release into the environment and cuts electricity supply costs.

The reduction in useable storage capacity on the Fos Tonkin terminal will limit the use of this service and reduce the income related to the contract with Air Liquide.

Against this backdrop, CRE has approved the following tariff treatment for this investment:

- The heat exchange devoted to this service is depreciated in accordance with the duration of the agreement between Elengy and Air Liquide,
- This asset is included in the RAB and remunerated in accordance with the tariff framework in force,
- The operational costs for managing the exchanger are covered by the tariff,
- 100% of the income received by Elengy relating to the agreement with Air Liquide is deducted from the operating costs covered by the tariff.

3. Total costs to be covered

3.1. *Net operating expenses*

The net operating expenses to be covered by the ATTM4 tariff are obtained by deducting the forecast ancillary income received independently of the tariff for use of the LNG terminals and the forecast stored and immobilised production from the operators' gross operating expenses.

3.1.1. Elengy: Montoir terminal

The tariff defined as at 1 April 2013 for the Montoir terminal takes into account the average of the costs below for the 2013-2016 period.

Current €m	Forecast				Average
	Tariff period				
	2013	2014	2015	2016	2013-2016
Gross operating expenses	58.25	59.04	59.16	59.84	59.23
Ancillary income	-4.22	-3.44	-3.24	-3.08	3.50
Total net operating expenses	**54.02**	**56.21**	**55.92**	**56.76**	**55.73**

3.1.2. *Elengy: Fos Tonkin terminal*

The tariff defined as at 1 April 2013 for the Fos Tonkin terminal takes into account the average of the costs below for the years 2013 and 2014. The level of this tariff shall be updated on 1 April 2015, and will consider, in particular, Elengy's decision on extending operations on this terminal beyond 2020.

Current €m	Forecast		Average
	Tariff period		
	2013	2014	2013-14
Gross operating expenses	33.67	34.27	33.97
Ancillary income	-4.33	-4.27	-4.30
Total net operating expenses	**29.34**	**30.00**	**29.67**

3.1.3. *Fosmax LNG: Fos Cavaou terminal*

The tariff defined as at 1 April 2013 for the Fos Cavaou terminal takes into account the average of the costs below for the 2013-2016 period.

Current €m	Forecast				Average
	Tariff period				
	2013	2014	2015	2016	2013-2016
Gross operating expenses	50.56	51.09	51.36	51.76	51.19
Ancillary income	- 3.69	- 3.75	- 3.88	- 2.81	- 3.53
Total net operating expenses	**46.87**	**47.34**	**47.48**	**48.96**	**47.66**

3.2. Standard capital expenditure

3.2.1. *Elengy: Montoir*

The projections for the Montoir terminal's RAB are as follows:

Current €m	2013	2014	2015	2016
RAB at 1/1/yyyy	314.73	326.64	335.31	319.67
Investments made (*)	30.27	27.77	4.27	4.27
Depreciation	-24.05	-24.95	-25.49	-26.06
Re-evaluation	5.68	5.85	5.58	5.29
RAB at 31/12/yyyy	**320.95**	**329.46**	**314.09**	**297.88**

(*) Investments included in the RAB

The projections for standard capital expenditure are as follows:

Current €m	2013	2014	2015	2016
Return on the RAB	29.48	30.34	30.07	28.71
Return on fixed assets in progress	1.59	1.10	0.88	0.88
Depreciation	24.05	24.95	25.49	26.06
Total	**55.13**	**56.39**	**56.44**	**55.65**

The tariff defined as at 1 April 2013 for the Montoir terminal takes into account the average of capital costs for the 2013-2016 period.

3.2.2. Elengy: Fos Tonkin

The projections for the Fos Tonkin terminal's RAB are as follows:

Current €m	2013	2014
RAB at 1/1/yyyy	122.05	118.94
Investments made (*)	14.63	9.23
Depreciation	-19.81	-21.17
Re-evaluation	2.06	1.89
RAB at 31/12/yyyy	**116.87**	**106.99**

(*) Investments included in the RAB

The projections for standard capital expenditure are as follows:

Current €m	2013	2014
Return on the RAB	11.32	10.73
Return on fixed assets in progress	0.89	0.93
Depreciation	19.81	21.17
Total	**32.02**	**32.84**

The tariff defined as at 1 April 2013 for the Fos Tonkin terminal takes into account the average of capital costs for the years 2013 and 2014.

3.2.3. Fosmax LNG: Fos Cavaou

The projections for the Fos Cavaou terminal's RAB are as follows:

Current €m	2013	2014	2015	2016
RAB at 1/1/yyyy	810.39	800.18	789.51	776.30
Investments made (*)	3.30	3.70	2.00	2.00
Depreciation	-27.65	-28.33	-28.93	-29.51
Re-evaluation	14.14	13.96	13.72	13.48
RAB at 31/12/yyyy	**786.04**	**775.55**	**762.58**	**748.80**

(*) Investments included in the RAB

The projections for standard capital expenditure are as follows:

Current €m	2013	2014	2015	2016
Return on the RAB	79.13	78.13	76.97	75.66
Return on fixed assets in progress	0.06	0.04	0.01	0.01
Depreciation	27.65	28.33	28.93	29.51
Total	**106.84**	**106.49**	**105.91**	**105.18**

The tariff defined as at 1 April 2013 for the Fos Cavaou terminal takes into account the average of capital costs for the 2013-2016 period.

3.3. Inclusion of the ATTM3 tariff CRCP balance

The CRCP balance for the ATTM3 will be cleared over the ATTM4 period in four equal instalments. The amounts taken into account in the CRCP are adjusted to present value using an interest rate equivalent to the risk-free rate used in this tariff decision. This rate is set at 4.0%, nominally, before tax.

3.3.1. Elengy: Montoir de Bretagne

The total estimated balance for the CRCP as at 31 December 2012 is €-15.92m for the Montoir de Bretagne terminal. It can be broken down as follows:

CRCP balance (€m)	ATTM3
Standard capital expenditure	3.53
Energy costs	-6.39
Income from the loading service	-0.20
Income from subscriptions	-12.86
Total	-15.92

The main contribution to the CRCP for the ATTM3 period is the item on income from subscriptions.

The CRCP balance, i.e. €15.92m, shall be cleared in four equal instalments of €4.30m, that will be deducted from the total costs to be covered by the next tariff.

3.3.2. Elengy: Fos Tonkin

The total estimated balance for the CRCP as at 31 December 2012 is €-19.15m for the Fos Tonkin terminal. It can be broken down as follows:

CRCP balance (€m)	ATTM3
Standard capital expenditure	-0.30
Energy costs	-0.43
Income from subscriptions	-18.41
Total	-19.15

The main contribution to the CRCP for the ATTM3 period is the item on income from subscriptions. Following the delay in the commissioning of the Fos Cavaou terminal, the Fos Tonkin terminal received additional cargoes in the first quarter of 2010.

The CRCP balance, i.e. €19.15m, shall be cleared in four equal instalments of €5.17m, that will be deducted from the total costs to be covered by the next tariff.

3.3.3. Fosmax LNG: Fos Cavaou

The total estimated balance for the CRCP as at 31 December 2012 is €+14.86m for the Fos Cavaou terminal. It can be broken down as follows:

CRCP balance (€m)	ATTM3
Standard capital expenditure	3.30
Energy costs	0.92
Income from subscriptions	10.63
Total	14.86

The main contribution to the CRCP for the ATTM3 period is the item on income from subscriptions. Due to the delay in the commissioning of the terminal, actual subscriptions were lower than the subscriptions approved in the tariff, as shippers released marketed short-term capacity.

The CRCP balance, i.e. €14.86m, shall be cleared in four equal instalments of €4.01m, that will be added to the total costs to be covered by the next tariff.

3.4. Authorised income

The total level of costs to be covered by the tariff for each terminal is as follows:

3.4.1. Elengy: Montoir

€m	Forecast				Average
	Tariff period				
	2013	2014	2015	2016	2013-16
Standard capital expenditure	55.13	56.39	56.44	55.65	55.90
Net operating expenses*	54.02	56.21	55.92	56.76	55.73
CRCP clearing	-4.30	-4.30	-4.30	-4.30	-4.30
Authorised income	**104.85**	**108.30**	**108.06**	**108.11**	**107.33**

(*) Excluding considerable variations in energy prices, subscriptions and the revision clause.

3.4.2. Elengy: Fos Tonkin

€m	Forecast		Average
	Tariff period		
	2013	2014	2013-14
Standard capital expenditure	32.02	32.84	32.43
Net operating expenses	29.34	30.00	29.67
CRCP clearing	-5.17	-5.17	-5.17
Authorised income	**56.19**	**57.67**	**56.93**

3.4.3. Fosmax LNG: Fos Cavaou

€m	Forecast				Average
	Tariff period				
	2013	2014	2015	2016	2013-16
Standard capital expenditure	106.84	106.49	105.91	105.18	106.11
Net operating expenses*	46.87	47.34	47.48	48.96	47.66
CRCP clearing	+4.01	+4.01	+4.01	+4.01	4.01
Authorised income	**157.72**	**157.85**	**157.40**	**158.15**	**157.78**

(*) Excluding considerable variations in energy prices, subscriptions and the revision clause.

III. Estimated regasification capacity subscriptions

The subscriptions approved below to define the tariff charges include a 100% “ship or pay” obligation for the three terminals.

1. Fos Tonkin and Montoir terminals

The projected subscriptions approved for the Fos Tonkin and Montoir terminals correspond to actual subscriptions. These subscriptions take the following into account:

- The reduction in the Fos Tonkin terminal’s regasification capacity as of the end of 2014 due to work to decommission a tank,
- The reduction in subscriptions on the Montoir terminal as of 2015 following the partial non-subscription of capacity released by GDF Suez, as part of its commitments to the European Commission[3].

[3] Procedure DG COMP/B-1/39.116

Montoir de Bretagne	ATTM4			
	2013	**2014**	**2015**	**2016**
Approved subscriptions (TWh/year)	123.0	123.0	106.9	106.9
Number of ships	143	143	126	126
Available capacity (%)	0%	0%	13.1%	13.1%

Fos Tonkin	ATTM4	
	2013	**2014**
Approved subscriptions (TWh/year)	48.0	44.8
Number of ships	119	107
Available capacity (%)	15.8%	13%

2. Fos Cavaou terminal

The level of subscription used to define the tariff for the Fos Cavaou terminal is equal to the capacity subscribed on the terminal, i.e. 90% of the terminal's marketable capacity.

In addition, the work planned for 2014 to set up the loading project at high flow rate, will result in the terminal being inaccessible for two weeks, in addition to the annual maintenance week. This one-off unavailability is taken into account by an equivalent decrease over the entire period of subscription estimates approved for the ATTM4 tariff.

Fos Cavaou	ATTM4			
	2013	**2014**	**2015**	**2016**
Subscribed capacity (TWh/year)	87.24	83.90	87.24	87.24
Approved subscriptions (TWh/year)	86.41	86.41	86.41	86.41
Number of ships	85	82	85	85
Available capacity (%)	10%	10%	10%	10%

IV. Structure of the tariffs for the use of LNG terminals

1. Changes to tariff terms

- Revision of the off-take levels of gas in kind

Under the ATTM3 tariffs, a gas in kind fee (TN), intended to cover the LNG terminal's natural gas consumption, applies to the terminal's users. The levels of off-take were set at 0.5% of the quantities unloaded annually for the Montoir and Fos Cavaou terminals and at 0.3% for the Fos Tonkin terminal. Given the feedback on the actual levels of gas in kind used, CRE has decided for the ATTM4 tariffs to set the levels for the Fos Tonkin and Fos Cavaou terminals at 0.2%.

- Management of periods with a low number of unloading operations

When there are few LNG unloading operations, LNG terminals are likely to consume additional gas in kind. Below a minimum send-out rate, terminal operators have to flare some of the evaporations of LNG stored in the tanks if it is unable to reintroduce it in the gas send-out towards the transmission network.

Consequently, additional quantities of withheld gas are allocated to all users of the terminal concerned, proportionately to the difference, for each user, between a threshold of 50% of the Contractual Unloaded Quantity (QDC) and the quantity actually unloaded over the period in question.

In the event of a long-term lack of LNG unloading operations that may affect the conditions for keeping a terminal cold, the operator notifies CRE as soon as possible and proposes the measures planned after consulting the terminal's users.

- Other changes to tariff terms

Other changes take into account responses to the public consultation conducted by CRE for the three terminals. Firstly, the charge concerning the number of unloading operations (renamed "Number of Docking Operations Charge") has been revised upwards in order to reflect the wharf costs more appropriately. Secondly, the charge for the use of regasification capacity has been reduced considerably in order to strengthen the appeal of the LNG terminals for medium-sized subscribers.

2. Changes to regasification services

Under the ATTM3 tariff, two different services are offered (including one with two separate prices), according to the user's profile:

- Continuous send-out service (hereafter continuous service): intended for shippers scheduling an average of more than one ship per month throughout the year. As part of this service, daily send-out is set by the terminal operator to be as regular as possible, based on the terminal's overall send-out schedule,
- Send-out service in 30-day bands:
    - "Uniform" service (hereafter uniform service): intended for shippers scheduling an average of less than one ship per month. As part of this service, a cargo's send-out is delivered with flat send-out over thirty days,
    - "Spot" service: reserved for unloading operations booked for month *m* after the 20th of month *m-1*. As part of this service, a cargo's send-out is delivered with flat send-out over thirty days.

2.1. Changes to the continuous service

To encourage access to the continuous service, this tariff decision introduces the possibility to subscribe to this service as of the first unloading operation for the three LNG terminals.

2.2. Changes to the uniform service

The uniform service is intended for shippers scheduling an average of less than one ship per month throughout the year. A new criterion provides access conditions for this service: the shipper in question must subscribe annual capacity totalling less than 12 TWh as part of this service.

In order to facilitate the management of operations at the Montoir and Fos Tonkin terminals and to improve send-out projections, the total of regasification capacity subscribed, for each month, by all uniform service users must not exceed one third of the terminal's total monthly capacity.

In addition, if an intra-monthly rescheduling request from a uniform service user causes a variation greater than 10% of the send-out notified to users of the continuous service, the send-out of the shipper making the request is modified as a priority and its cargo can no longer be sent-out as a constant band for the part sent-out over the month in question. The acceptance of the rescheduling request is subject to the operator's confirmation of its feasibility and the requesting shipper's approval, where necessary, of the modification of send-out.

2.3. Changes to the "spot" service

In the ATTM4 tariff, the send-out profile of a user subscribing to the "spot" service will tend towards a thirty—day band as of the date of the end of unloading, provided that the send-out set in the monthly schedule of which the terminal's continuous users are notified is not modified by more than 10% each day. If this limit is exceeded, the send-out profile associated with the spot service shall be modified in terms of duration and/or volume, in agreement with the shipper concerned.

2.4. Rules for a single shipper subscribing to several services

Under the ATTM3 tariff, additional subscriptions made by continuous service users are systematically attached to this service. In addition, a uniform service user may subscribe to one or more additional cargoes in the "spot" service.

Under the ATTM4 tariff, a shipper may access the three services more freely. Operators must submit to CRE for approval the rules for a single shipper subscribing to several services and any modifications to services for capacity already subscribed. These proposals must be made on the basis of the work conducted by the "Concertation GNL" working group.

3. Optimising the use of regasification capacity

The ATTM4 tariff introduces the following changes with regard to mechanisms that facilitate their capacity commercialisation and optimise their use:

3.1. Changes to the payment obligation for booked capacity ("ship or pay")

In order to encourage users to book capacity that corresponds to their requirements, this rate is now set at 100% for the three terminals.

3.2. Changes to the provisions governing failures to comply with the unloading schedule

The ATTM4 tariff introduces a gradual penalty for non-compliance with the unloading schedule according to when notice of the modification is given. This penalty is only charged if notice is given less than twelve days prior to the scheduled unloading. The income from this penalty is paid to affected customers, proportionate to the total send-out allocated over the month in question.

3.3. Changes to send-out advancement and deferral services

The tariff of these services is changing. It is now proportionate to the quantity of gas for the advanced or deferred send-out and not the number of days of advancement or deferral.

50% of the income generated by this service will be redistributed to continuous service shippers, on a pro rata basis of the quantities unloaded on the terminal, as of the following month.

4. Changes to additional services

4.1. Intra-day flexibility service

The CRE Deliberation dated 25 November 2010, approved by the Ministerial Order dated 3 March 2011, introduced an intra-day flexibility service offered by Elengy to GRTgaz on the Fos Tonkin terminal. CRE has taken into account Elengy's extra investment costs related to the next seismic design standards, which has led to the small increase in the fixed charge billed to GRTgaz.

The CRE Deliberation dated 28 February 2012 introduced an intra-day flexibility service offered by Fosmax LNG to GRTgaz. This service is renewed under the same conditions in the ATTM4 tariffs.

4.2. Tanker loading service

Elengy and Fosmax LNG have proposed from 2012, on an experimental basis, a tanker loading service on the Montoir and Fos Cavaou terminals.

For the ATTM4 tariff, CRE has introduced this cargo reloading service for the three regulated terminals. It has ensured that the charges related to this service are entirely offset by equivalent income. In order to ensure an equal distribution of the related income between the operator and users of the terminal, 50% of any additional income from this service will be covered by the CRCP.

4.3. Truck loading service

The operators intend to launch a truck loading service. This service would in particular enable the road transport of LNG tanks.

Given the marginal nature of this activity, which is separate from the regasification activity, the operators may set the price for the provision of this service themselves, provided that they keep separate accounts for this activity. CRE shall check that this service is strictly neutral in terms of the regasification activity. It will conduct an audit of this service and may modify the applicable tariff conditions if necessary.

4.4. Shared cargo service for unloading operations

Elengy and Fosmax LNG intend to set out rules enabling a cargo to be shared between several shippers bound by no contractual relationship. Such a change would make the LNG terminal operators' offer more attractive, in particular for new users.

The tariff related to this delivery will be applied to each of the shippers concerned on the basis of one tanker unloading operation and one cargo size proportionate to the quantity of LNG allocated to each shipper.

TARIFFS FOR THE USE OF REGULATED LIQUEFIED NATURAL GAS TERMINALS

I. Provisions applicable to the three terminals

1. Basic services offered

The subscription of regasification capacity results in the right and the obligation to hold corresponding entry capacity on the adjacent transmission network.

Continuous send-out service: this service is accessible to all users. As part of this service, the operator provides continuous send-out over the contractual period. The send-out is made as regular as possible for the user, according to the terminal's overall schedule of unloading operations. When several users book the “continuous” service, the rules for sharing send-out among the users concerned are defined by the operator and approved by CRE.

Uniform send-out service:

- “uniform” service: this service is intended for shippers that unload at most one cargo per month at a terminal, averaged over the year and for a total annual quantity less than 12 TWh. For this service, each cargo is sent out as a constant band that continues for a standard duration of 30 days after the date unloading finishes,
- “spot” service: this service is intended for cargos unloaded in month *m* that were booked after the 20th of month *m-1*. Subscriptions are for slots that were vacant in the monthly schedule at the time of the booking. The send-out for the spot service will tend towards a constant band that continues for a standard duration of 30 days from the end date of the unloading.

Operators must submit to CRE for approval the rules for a single shipper subscribing to several services and any modifications to services for capacity already subscribed. These proposals must be made on the basis of the work conducted by the “Concertation GNL” working group.

2. Tariff terms

TNA term based on the number of docking operations, applied to each cargo loaded or unloaded on the LNG terminal, expressed in € per docking operation,

TQD term based on the quantity unloaded, applied to the quantity of LNG unloaded, expressed in €/MWh,

TUCR term based on the use of regasification capacity, applied to the average interval between the arrival of two ships (time limited to one month), expressed in €/MWh,

TR regularity term, based on the variance, as an absolute value, between the quantities of LNG unloaded in winter and the quantities unloaded in summer, expressed in €/MWh,

TN term relating to gas in kind, intended to cover the gas consumed by the LNG terminal,

TFR fixed term based on loading operation, applied to each cargo loaded on the LNG terminal, expressed in € per loading operation,

TQR term based on the quantity loaded, applied to the quantities of LNG loaded, expressed in €/MWh.

3. Detailed rules for the off-take of gas in kind

As a basis, off-takes of gas in kind are conducted by each terminal operator according to the TN gas in kind term applied to the quantity of LNG actually unloaded by each user of a terminal (expressed in MWh per year).

In addition to these standard provisions, the operator must draw up an annual statement showing its use of gas in kind. If this shows that the quantity of gas taken is greater than the quantity of gas consumed by the LNG terminal, the operator pays shippers that have unloaded LNG at the terminal during the previous year for the gas surplus. Payment is either financial or in kind, and is proportional to the quantities the shippers have unloaded. If this shows that the quantity of gas taken is insufficient to cover the terminal's consumption, the negative balance of year *Y* will be carried over to the opening balance of year *Y+1.*

Should the terminal operator forecast a send-out level less than the minimum level required to incorporate the evaporations, it could take the following measures:

- The quantities of gas taken could be increased in excess of the TN term set in this tariff decision. The operator must notify CRE and its terminal's users ahead of this increase,
- The additional quantities of gas taken are allocated to all the users of the terminal in question, proportionate to the difference, for each of them, between 50% of the Contractual Unloaded Quantity (QDC) and the quantity actually unloaded over the period in question.

In the event of a long-term lack of LNG unloading operations that may affect the conditions for keeping a terminal cold, the operator notifies CRE as soon as possible and proposes the measures planned after consulting the terminal's users.

II. Tariff for the use of the Montoir de Bretagne terminal operated by Elengy

1. Trajectory for authorised income

Elengy's authorised income trajectory for the Montoir terminal is as follows:

In current €m	Forecast				Average
	Tariff period				
	2013	2014	2015	2016	2013-16
Standard capital expenditure	55.13	56.39	56.44	55.65	55.90
Net operating expenses(*)	54.02	56.21	55.92	56.76	55.73
CRCP clearing	-4.30	-4.30	-4.30	-4.30	-4.30
Authorised income(*)	**104.85**	**108.30**	**108.06**	**108.11**	**107.33**

(*) Excluding considerable variations in energy prices, subscriptions and the revision clause.

2. Accounting for the CRCP balance

Half-way through the tariff period, CRE shall calculate the balance of the CRCP including the variances recorded for the items in the table below. This balance shall be cleared in four equal instalments.

In current €m	Montoir-de-Bretagne			
	2013	2014	2015	2016
Income from subscriptions, covered at 75%(*)	104.85	108.30	108.06	108.11
Capital costs, covered at 100%	55.13	56.39	56.44	55.65
Energy costs and products, covered at 90%(*)	3.3	3.5	3.1	3.4
Income from the ship reloading service, covered at 50%	0	0	0	0
Income from the LNG exchange point, covered at 50%	0	0	0	0

(*) The reference amounts for the calculation of the CRCP balance for the years 2015 and 2016 shall be updated on 1 April 2015 in the event of considerable variance

An interest rate equivalent to the risk-free rate, i.e. 4.0%, applies per year to the overall CRCP balance.

3. Tariff structure

The tariff structure below applies as of 1 April 2013 for approximately four years. It is defined according to the average of costs (see table above) and the average capacity subscription estimates used by CRE for the ATTM4 period.

The tariff for the use of the Montoir terminal is defined in the following table:

TNA	€50,000 x T
TQD	For the “continuous” service: €0.870 x Q For the “uniform” service: €0.870 x Q For the “spot” service: €0.653 x Q
TUCR	€0.120 x Q x N
TR	For the “continuous” service: €0.210 x [Qh – Qe] For the “uniform” service: €0.040 x [Qh – Qe]
TN	0.50% x Q (Detailed rules for the off-take of gas in kind described below)
TFR	€240,000 / loading operation
TQR	€0.160 x Qc

T= number of cargoes unloaded per year

Tc= number of cargoes loaded per year

Q = quantity of LNG unloaded per year, expressed in MWh

Qc = quantity of LNG loaded per year, expressed in MWh

Qe = net quantity of LNG unloaded during the summer months (1 April – 30 September), expressed in MWh

Qh = net quantity of LNG unloaded during the winter months (1 October – 31 March), expressed in MWh

N = average interval between the arrival of two ships, expressed as a fraction of a month:

N = min (12/T, 1)

For a given month, the total of Contractual Unloaded Quantities (QDC) by all “uniform” service users must not exceed one third of the terminal’s total monthly send-out capacity.

4. Updating the tariff structure for the Montoir-de-Bretagne terminal as of 1 April 2015

The tariff for the Montoir-de-Bretagne terminal shall be updated on 1 April 2015 to take into account:

- Variances resulting from the effects of changes to regasification capacity subscription forecasts for the years 2015 and 2016 on the average tariff,
- Any variances between the energy cost forecasts initially approved by CRE (see table in Point 2 above) and the revision of these forecasts for the years 2015 and 2016,
- The clearing of the first two instalments of the CRCP balance for the 2013-2014 period,
- Any amounts that CRE may apply for 2015 and 2016 based on the revision clause,

- Variances resulting from the effects of changes to the authorised income forecasts for the years 2015 and 2016 on the average tariff,
- The updating of the tariff structure and services in particular to take into account development proposals from the “Concertation GNL” working group.

III. Tariff for the use of the Fos Tonkin terminal operated by Elengy

1. Trajectory for authorised income

Elengy’s authorised income trajectory for the Fos Tonkin terminal is as follows:

€m	Forecast Tariff period		Average
	2013	2014	2013-14
Standard capital expenditure	32.02	32.84	32.43
Net operating expenses	29.34	30.00	29.67
CRCP clearing	-5.17	-5.17	-5.17
Authorised income	**56.19**	**57.67**	**56.93**

2. Accounting for the CRCP balance

Half-way through the tariff period, CRE shall calculate the balance of the CRCP including the variances recorded for the items in the table below. This balance shall be cleared in four equal instalments.

€m	Fos Tonkin	
	2013	2014
Income from subscriptions, covered at 75%	56.19	57.67
Capital costs, covered at 100%	32.02	32.84
Energy costs and products, covered at 90%	2.1	2.2
Income from the ship reloading service, covered at 50%	0	0
Income from the LNG exchange point, covered at 50%	0	0

An interest rate equivalent to the risk-free rate, i.e. 4.0%, applies per year to the overall CRCP balance.

3. Tariff structure

The tariff structure below applies as of 1 April 2013 for approximately two years. It is defined according to the average of costs (see table above) and the average capacity subscription estimates used by CRE for the years 2013 and 2014.

The tariff for the use of the Fos Tonkin terminal is defined in the following table:

TNA	€45,000 x T
TQD	For the “continuous” service: €1.127 x Q For the “uniform” service: €1.127 x Q For the “spot” service: €0.845 x Q
TUCR	€0.120 x Q x N
TR	For the “continuous” service: €0.210 x [Qh – Qe] For the “uniform” service: €0.040 x [Qh – Qe]
TN	0.20% x Q (Detailed rules for the off-take of gas in kind described below)
TFR	€180,000 / loading operation
TQR	€0.160 x Qc

T= number of cargoes unloaded per year

Tc= number of cargoes loaded per year

Q = quantity of LNG unloaded per year, expressed in MWh

Qc = quantity of LNG loaded per year, expressed in MWh

Qe = net quantity of LNG unloaded during the summer months (1 April – 30 September), expressed in MWh

Qh = net quantity of LNG unloaded during the winter months (1 October – 31 March), expressed in MWh

N = average interval between the arrival of two ships, expressed as a fraction of a month:
$$N = \min(12/T, 1)$$

For a given month, the total of Contractual Unloaded Quantities (QDC) by all “uniform” service users must not exceed one third of the terminal’s total monthly send-out capacity.

4. Updating the tariff structure for the Fos Tonkin terminal as of 1 April 2015

The Fos Tonkin tariff will be updated as of 1 April 2015 according to new operating and capital cost estimates and new capacity subscription forecasts set by CRE to take into account Elengy’s decision with regard to the extension of operations at the Fos Tonkin terminal beyond 2020.

When updating the tariff, CRE will also take into account the clearing of the first two instalments of the CRCP balance for the 2013-2014 period and the updating of the tariff structure and services in particular to take into account development proposals from the “Concertation GNL” working group.

IV. Tariff for the use of the Fos Cavaou terminal operated by Fosmax LNG

1. Trajectory for authorised income

Fosmax LNG's authorised income trajectory is as follows:

€m	Forecast				Average
	Tariff period				
	2013	2014	2015	2016	2013-16
Standard capital expenditure	106.84	106.49	105.91	105.18	106.11
Net operating expenses(*)	46.87	47.34	47.48	48.96	47.66
CRCP clearing	+4.01	+4.01	4.01	4.01	4.01
Authorised income(*)	**157.72**	**157.85**	**157.40**	**158.15**	**157.78**

(*) Excluding considerable variations in energy prices, subscriptions and the revision clause.

2. Accounting for the CRCP balance

Half-way through the tariff period, CRE shall calculate the balance of the CRCP including the variances recorded for the items in the table below. This balance shall be cleared in four equal instalments.

€m	Fos Cavaou			
	2013	2014	2015	2016
Income from subscriptions, covered at 75%(*)	157.72	157.85	157.40	158.15
Capital costs, covered at 100%	106.84	106.49	105.91	105.18
Energy costs and products, covered at 90%(*)	4.2	4.3	4.4	4.5
Income from the ship reloading service, covered at 50%	0	0.5	0.5	0.5
Income for the LNG exchange point, covered at 50%	0	0	0	0

(*) the reference amounts for the calculation of the CRCP balance for the years 2015 and 2016 shall be updated on 1 April 2015 in the event of considerable variance

An interest rate equivalent to the risk-free rate, i.e. 4.0%, applies per year to the overall CRCP balance.

3. Tariff structure

The tariff structure below applies as of 1 April 2013 for approximately four years. It is defined according to the average of costs (see table above) and the average capacity subscription estimates used by CRE for the ATTM4 period.

The tariff for the use of the Fos Cavaou terminal is defined in the following table:

TNA	€60,000 x T
TQD	For the "continuous" service: €1.768 x Q For the "uniform" service: €1.768 x Q For the "spot" service: €1.326 x Q
TUCR	€0.120 x Q x N
TR	For the "continuous" service: €0.210 x [Qh – Qe] For the "uniform" service: €0.040 x [Qh – Qe]
TN	0.20% x Q (Detailed rules for the off-take of gas in kind described below)
TFR	€300,000 / loading operation
TQR	€0.160 x Qc

T= number of cargoes unloaded per year

Tc= number of cargoes loaded per year

Q = quantity of LNG unloaded per year, expressed in MWh

Qc = quantity of LNG loaded per year, expressed in MWh

Qe = net quantity of LNG unloaded during the summer months (1 April – 30 September), expressed in MWh

Qh = net quantity of LNG unloaded during the winter months (1 October – 31 March), expressed in MWh

N = average interval between the arrival of two ships, expressed as a fraction of a month:
N = min (12/T, 1)

4. Updating the tariff structure of the Fos Cavaou terminal as of 1 April 2015

The tariff for the Fos Cavaou terminal shall be updated on 1 April 2015 to take into account:

- Variances resulting from the effects of changes to regasification capacity subscription forecasts for the years 2015 and 2016 on the average tariff,
- Any variances between the energy cost forecasts initially approved by CRE (see table in Point 2 above) and the revision of these forecasts for the years 2015 and 2016,
- The clearing of the first two instalments of the CRCP balance for the 2013-2014 period,
- Any amounts that CRE may apply for 2015 and 2016 based on the revision clause,
- Variances resulting from the effects of changes to the authorised income forecasts for the years 2015 and 2016 on the average tariff,
- The updating of the tariff structure and services in particular to take into account development proposals from the "Concertation GNL" working group.

V. Additional services and obligations associated with the use of regulated terminals

1. Early and send-out postponement service

This service enables users of “uniform” and “spot” services to bring forward or postpone the start of send-out for one or two days before or after the date originally scheduled, after that cargo has been unloaded.

The user booking the service for an unloading operation scheduled for month *m* must apply to the operator before the 20^{th} of month *m-1* at the latest. The operator reviews the impact on other terminal users’ send-out and then announces to the applicant at the latest on the 25^{th} of month *m-1* whether or not the service is feasible.

The tariff for the service includes:

- a fixed part to cover the terminal operator’s management expenses,
- a variable part proportional to the quantity of gas deferred or advanced.

Tariff = Fg + Qr x €0.25/MWh

Where:

Fg = management expenses set at €10,000 per early or postponement request

Qr = quantity of gas deferred or advanced (in MWh)

50% of the income generated by this service will be distributed among “continuous” shippers, in proportion to the quantities unloaded on the terminal, as of the following month.

2. Obligation to pay for subscribed capacity (“ship or pay”)

Shippers have an obligation to pay the tariffs applied at 100% of the quantities and of the number of unloading operations booked.

3. Treatment of failures to stick to schedule

Each user cancelling a scheduled unloading operation for month *m* is subject to one of the following:

- an obligation to compensate, either in gas or financially, the shipper(s) whose send-out is reduced as a result,
- a penalty the amount of which depends on when notice is given. This penalty, which is applicable only when a cancellation impacts the send-out of other users, is calculated as follows:

P = P0 x F(n)

Where:

n: number of days between the ship’s scheduled date of arrival and the date of notification of the cancellation,

P0 = 50% of the total of the TNA and TQD terms related to the cancelled unloading operation

F(n) is equal to:

- 1 if n is less than or equal to 5,
- (12-*n*) / 7 if n is between 6 and 12,
- 0 if *n* is greater than 12.

Income related to this penalty will be distributed among the affected customers, proportionately to the amount of send-out allocated to them over the month in question.

4. ***"Use it or lose it"*** **mechanism**

The holders of regasification capacity have to indicate to the operators their requested monthly schedule of unloading operations, at the latest on the 20th of month *m*, for month *m+1,* as well as their draft unloading schedules for months *m+2* and *m+3*.

On the 25th of month *m* for month *m+1*, the terminal operator publishes the available capacity, adjusted for subscribed capacity that is not subject to a schedule request. For information, it also publishes this data for months *m+2* et *m+3*. The operator updates the information for the current month at the start of the second week of the month.

If the schedule for month *m+1* shows no available unloading slot, each cancellation of an unloading operation without notice, unless for reasons of force majeure, will be formally noted and the regulator informed. When the terminal's capacity is fully booked, CRE may require the concerned shipper to release subscribed capacity on a case by case basis, in order to free capacity at the terminal.

If access to the terminal's regasification capacity is seen to be congested, the terminal operator will, upon CRE's request, provide it with full information on subscriptions requests for the period of congestion.

In order to enable a proper functioning of the UIOLI mechanism, the operators must publish at least the following information on their website:

- the terminal's technical capacity for the months m+1 to m+6,
- the terminal's subscribed capacity for the months m+1 to m+6,
- the projected number of available unloading slots for the months m+1 to m+6.

This information is published monthly and will be supplemented by aggregated figures published for full years:

- the terminal's technical capacity, at least for the years n+1 to n+20,
- the terminal's available capacity, at least for the years n+1 to n+20.

Each month, terminal operators will communicate to CRE a consignment record reporting cancelled unloading operations and send-out that has been deferred or advanced.

5. Capacity release mechanism

In addition to the "*Use it or lose it"* mechanism described above, the ATTM4 tariff allows shippers holding regasification capacity to explicitly renounce the use of their capacity for months *m+2* and *m+3*. This capacity remains payable by the initial holder under the "*ship or pay"* clause until it is booked by another shipper.

6. *Secondary market in regasification capacity*

Regasification capacity marketed by operators may be transferred in whole or in part between users. Operators do not charge any amount to the buyer and/or seller.

7. LNG exchange point

Each LNG terminal has a gas exchange point, so that users can exchange quantities of LNG between themselves.

The operators define, based on objective, transparent and non-discriminatory criteria, how LNG exchange points are managed in practice. They send the details to CRE and publish them on their website.

The tariff for accessing an LNG exchange point includes:

- a fixed term no higher than €500 per month per exchange point,
- a term proportional to the quantities exchanged, no higher than €0.01 /MWh.

50% of the income generated by this service is paid to the CRCP.

8. Cargo loading service

This service is billed, on the basis of user subscriptions, as follows:

- A fixed docking operation term (TNA),
- A fixed loading term (TFR),
- A variable term: Loaded Quantity Term (TQR), according to the contractual loaded quantity.

The "*ship or pay"* obligation as defined in Point 2 above applies to this service.

50% of the income generated by this service in excess of the subscription forecasts used for the tariff trajectory is paid to the CRCP.

9. Cargo sharing service for unloading operations

This service is billed, on the basis of user subscriptions, as follows:

- A fixed term, billed to each subscriber, equal to TNA/*n*:
    - Where TNA is equal to the TNA docking operation term in force for the terminal in question,
    - and n is equal to the number of users who subscribed to regasification capacity as part of the unloading operation in question,
- a variable term, billed to each user, equal to TQD x Q*e*
    - where TQD is equal to the term of unloaded quantities in force for the terminal in question,
    - and Q*e* is equal to the quantity subscribed by the user for the unloading operation in question.

The obligation to pay subscribed capacity, as defined in Point 2 of this Decision is applicable in a similar fashion in the event of capacity subscribed as part of the cargo sharing service. In addition, the total of quantities subscribed by each user must be equal to the total quantity unloaded.

10. Intra-day flexibility services provided to GRTgaz by the Fos Tonkin and Fos Cavaou terminals

10.1.Fos Tonkin terminal

Elengy offers GRTgaz an interruptible intra-day flexibility service.

GRTgaz must confirm to Elengy hourly profiles of intra-day flexibility demand a day ahead and, where necessary, a new profile during the day.

Elengy's offer is available, except in the following extreme situations:

- minimum send-out flow rates: operation with a single pump for terminal send-out of less than 80 GWh/day,
- maximum terminal send-out flow rates: greater than 250 GWh/day[4].

In both cases, Elengy may decide to reduce or cancel the intra-day flexibility service it offers.

If GRTgaz's request is greater than the intra-day flexibility requirements equivalent to two power stations[5], Elengy will strive to meet it.

Under all circumstances, Elengy will confirm to GRTgaz a day ahead the availability and the level of the intraday flexibility service at Fos.

The tariff for the flexibility service comprises a fixed term and two usage-based terms. The usage-based terms are billed based on the profile agreed on each day by Elengy and GRTgaz, depending on the amplitude of the upward hourly flow and the amplitude of the downward hourly flow requested.

The tariff terms are as follows:

Fixed annual term	€/year	620 000
Term related to the upward demand (amplitude)	€/d/(MWh/h)	4,24
Term related to the downward demand (amplitude)	€/d/(MWh/h)	0,36

10.2.Fos Cavaou terminal

Fosmax LNG offers GRTgaz an interruptible intra-day flexibility service.

GRTgaz must confirm to Fosmax LNG hourly profiles of intra-day flexibility demand a day ahead and, where necessary, a new profile during the day.

Fosmax LNG's offer is deemed to be available except in situations of extreme flow rates (close to the send-out minimum or maximum).

In these situations, Fosmax LNG may decide to reduce or cancel the intra-day flexibility service it offers.

Under all circumstances, Fosmax LNG will confirm to GRTgaz a day ahead the availability and the level of the intraday flexibility service at Fos Cavaou.

The tariff for the flexibility service comprises a fixed term and two usage-based terms. The usage-based terms are billed based on the profile agreed on each day by Fosmax LNG and GRTgaz, depending on the amplitude of the upward hourly flow and the amplitude of the downward hourly flow requested.

[4] This limit does not take into account the send-out limits related to equipment unavailability at the Fos Tonkin LNG terminal or the saturation of the Fos outlet on the GRTgaz network that could cause a reduction in the level of intra-day flexibility offered by Elengy. Neither does it take into account optimisation of the regasification chain that could lead to an increase in the level of intra-day flexibility offered by Elengy.

[5] Standard operation of 16 hours per day over 310 days per year.

The tariff terms are as follows:

Fixed annual term	€/year	93,000
Term related to the upward demand (amplitude)	€/d/(MWh/h)	4.11
Term related to the downward demand (amplitude)	€/d/(MWh/h)	0.67

VI. Specific services

The specific services required for regasification (for instance, official authorisation for LNG tankers that might unload), are described in a catalogue of services published on the operator's website, together with the tariff that applies to each service.

In accordance with the dispositions of the article L.452-3 of the French Energy code, the herein decision will be published in the *Journal official de la République française.*

Executed in Paris, 13 December 2012

On behalf of the Energy Regulatory Commission,

The President,

Philippe de LADOUCETTE

President