Deliberation

Deliberation by the French Energy Regulatory Commission of 17 December 2015 concerning the decision regarding the experimentation of a pooling service for intra-monthly capacities in regulated LNG terminals

Present: Philippe de Ladoucette, President, Catherine Edwige, Hélène Gassin, Yann Padova and Jean-Pierre Sotura, commissioners.

In application of Article L.134-2, (4) of the Energy Code, the French Energy Regulatory Commission (CRE) clarifies the rules relating to the usage conditions for liquefied natural gas (LNG) facilities.

There are currently three LNG terminals in operation in France. The terminals of Montoir-de-Bretagne and Fos Tonkin are operated by Elengy, a 100% subsidiary of Engie, whereas the terminal of Fos Cavaou is operated by Fosmax LNG, a subsidiary owned 72.5% by Elengy and 27.5% by Total Gaz Electricité Holding France (TGEHF). Access to these three terminals is regulated. In addition, the terminal of Dunkirk belonging to Dunkerque LNG, a subsidiary owned by EDF (65%), Fluxys (25%) and Total (10%), is scheduled to enter into service at the beginning of 2016. This terminal obtained an exemption from third-party regulated access rules.

The aim of the pooling service is to allow subscribers with ship or pay[1] capacity payment obligations to use their subscribed but unused capacities at a given terminal in another terminal. The service was presented to the LNG Consultation group on 21 May 2015, and was well received by the majority of the present stakeholders.

On 3 July 2015, Elengy and Fosmax LNG sent CRE a joint proposal to launch an experimental pooling service for intra-monthly capacity in the three regulated terminals, until the new tariffs for the use of regulated LNG terminals (ATTM5) come into force on 1 April 2017.

CRE organised a public consultation on the proposal of terminal operators, between 29 October and 23 November 2015, and received six responses:

- two responses from shippers,
- two responses from infrastructure operators,
- one response from an association,
- one response from an actor who wished to remain anonymous.

The non-confidential responses will be published on CRE's website.

The purpose of this deliberation is to specify the conditions of the experiment, by operators of regulated LNG terminals, for the intra-monthly capacities pooling service.

[1] The deliberation of CRE of 13 December 2012 regarding the decision on the tariff for the use of regulated LNG terminals provides that 100% of subscribed capacities must be paid for, regardless of whether they are used (ship or pay).

1. Launch of the pooling service

1.1. Proposal by operators

The pooling service would allow any shipper with subscriptions in at least one of the three regulated terminals and not having planned to use them all in month M, to use part of the capacities in one of the other regulated terminals, by accessing capacity that is still available in this second terminal after the 20th day of month M-1 at a discounted price.

The service would enable mid-term and long-term capacity subscribers to unload their cargo on another coastline. This would thus allow LNG actors to react rapidly to market signals, for example in the event of congestion on the North-South connection, leading to a price differential between the North PEG and the Trading Region South[2] or in the case of tension on maritime transport upstream.

1.2. Responses to the public consultation

The contributors are mostly in favour of the principle of a pooling service between regulated LNG terminals. They estimate that this service will be a useful addition to the tariff package for these terminals.

One actor is in favour of the proposal by operators in principle but wondered about the actual appeal of such a service, believing that the prices of the terminals' capacities only have a low impact on LNG unloading operations in France. They would like feedback on this experiment during the course of 2016.

1.3. CRE's analysis

CRE considers that the proposed service offers additional flexibility conducive to the smooth operation of the gas market.

CRE is therefore in favour of the principle of experimenting, by regulated LNG terminal operators, with the intra-monthly capacities pooling service until the entry into force of the ATTM5 tariff.

CRE asks operators to provide feedback in LNG Consultation on their experience of this service by 31 October 2016. CRE will explore the opportunity to continue with this service in the framework of the ATTM5 tariff work.

2. Method for calculating the pooling credit and the tariff of a pooling operation

2.1. Proposal by operators

Any shipper who does not expect to use the entirety of their subscription in terminal A during month M would have a "pooling credit" that they could use in the other regulated terminals during the same month. This credit, expressed in euros, would be equal to the difference between the contracted capacity and the capacity actually used by the shipper during month M, valued on the basis of the number of berthing operations (TNA (A)) and the amount of unloaded volumes (TQD (A)) applicable in terminal A.

Formula for determining a shipper's "pooling credit" (C) for month M in terminal A:

$$\mathbf{C_{(euros)} = (NCu - NU) \times TNA(A) + (QCu - QU) \times TQD(A)}$$

Where:

NCu: *Number of contracted unloading operations*
NU: *Number of actual unloading operations*
QCu: *Contractual unloaded quantity*
QU: *Actual unloaded quantity*
TNA: *Applicable term for number of berthing operations in the terminal*
TQD: *Applicable term for unloaded quantity in the terminal*

The pooling credit could be estimated during the course of month M upon request by the shipper, but would not be definitively calculated until M+1 on the basis of actual usage of subscribed capacities.

[2] *Trading Region South*: market area in the South of France, created from the GRTgaz South and TIGF areas on 1 April 2015.

The shippers would remain liable for the totality of their ship or pay obligations in terminal A, including the case where they have used some of their pooling credit in terminal B.

A shipper's pooling credit for month M in terminal A could be used - during the same month only – for a new subscription in one of the other regulated terminals

The operators propose that the tariff for a pooling operation in the arrival terminal (terminal B) should be at least the same as the berthing tariff applicable in this terminal. The tariff for the pooling operation would therefore be the maximum between, on the one hand, the number of berthing operations term (TNA) of terminal B and, on the other hand, the sum of the two following terms:

- a first term is the difference between the normal tariff of an additional intra-monthly subscription in terminal B (excluding the regularity term TR[3] and the term for use of regasification capacities TUCR[4], calculated independently) and the shipper's pooling credit for month M, where this term cannot be negative, and
- a second term that is proportional to the normal tariff of an additional intra-monthly subscription in terminal B (excluding TR and TUCR). For this term, the operators propose a fixed ratio of 30%. This percentage allows in particular a necessary minimum level of credit to be introduced to be able to benefit from a discount in terminal B, and thus avoid the use of a pooling operation for a new subscription while the cumulative credit is low.

The pooling operation tariff would be calculated using the following formula:

$$\mathbf{P_{(euros)} = Max\ [Max(S - C;\ 0) + Min(0.3 \times S;\ C);\ Max(1;\ NAu) \times TNA(B)]}$$

Where:

P:	*Pooling operation tariff billed by terminal B with pooling credit used*
S:	*Normal subscription tariff in terminal B*
C:	*Shipper's pooling credit for month M*
NAu:	*Number of additional unloading operations subscribed by the shipper in terminal B*
TNA(B):	*Applicable term for number of berthing operations in terminal B*

The regularity terms (TR) and the terms for use of regasification capacities (TUCR) would be updated by the operator of terminal B to account for additional subscribed capacities.

For the same pooling operation, the shipper could also use the pooling credits created by its mid-term and long-term subscriptions in two regulated terminals.

2.2. Responses to the public consultation

The participants in the public consultation were mainly in favour of the method for calculating the pooling credit. However, one actor considers that it should be determined annually and not monthly, in order to offer shippers more flexibility.

As regards the calculation of the tariff for a pooling operation, two actors believe that the threshold of 30% aiming at avoiding pooling operations on low volumes is unnecessary and that it makes the service less attractive because it does not allow the use of a low pooling credit. They believe that the discount should apply from the first euro of pooling credit.

One actor wants the term for use of regasification capacities (TUCR) not to be paid by the shipper at terminal B given that the shipper already has to pay the terminal as part of its ship or pay.

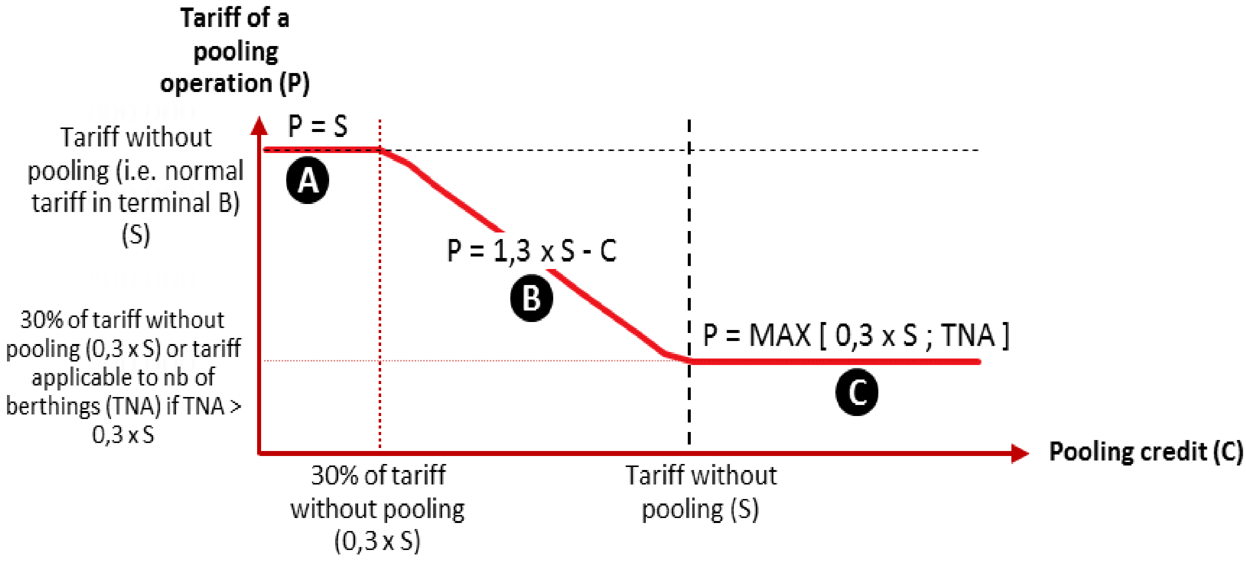
One actor also proposes considering a regularity term (TR) calculated overall between terminals A and B.

[3] Regularity term: term aimed at encouraging shippers to distribute ship arrivals between the summer and winter.
[4] Term for use of regasification capacities: term to encourage shippers to spread ship arrivals out over the year.

2.3. CRE's analysis

CRE considers that the method for calculating the pooling credit as proposed by the operators is relevant:

- for a pooling credit less than a percentage of the normal tariff, the tariff for the pooling operation is equal to the operation spot price in terminal B (see case (A) illustration below);
- As soon as the pooling credit is more than a percentage of the normal rate of the additional intra-monthly subscription in terminal B, the tariff for the pooling operation decreases linearly to the extent that the pooling credit increases (see case (B) illustration below);
- when the pooling credit exceeds the normal tariff for the additional intra-monthly subscription in terminal B, the pooling tariff reaches a threshold at least equal to the tariff for a berthing operation in terminal B (see case (C) illustration below).



Pooling operation tariff in terminal B, depending on the pooling credit

The reduction, by the term for number of berthing operations (TNA), of the tariff for a pooling operation in terminal B ensures the variable costs related to the additional operation are covered; the fixed costs of the terminals remain covered through the principle of 100% ship or pay. Furthermore, the subscriptions taken out using the pooling service are additional subscriptions of regasification capacities, and the corresponding receipts would be covered 75% in the CRCP.

CRE takes note of the actors' request to be able to get a discount on a pooling operation as of the first euro of credit available. However, a minimum level is necessary in order to avoid the implementation of pooling operations to use a low amount of credit. In fact, if the first euro of pooling credit could be used, a shipper could ask to benefit from the pooling operation following a slight change in the annual schedule planned by a shipper in a terminal (for example, a small reduction in the volume of a shipment). CRE is of the opinion that the replacement of the term 0.3 by 0.1 would be sufficient to avoid these effects and would enhance the attractiveness of the service.

Thus, the tariff for a pooling operation can be calculated with the following formula:

$$\mathbf{P_{(euros)} = Max\ [Max(S - C;\ 0) + Min(0.1 \times S;\ C);\ Max(1;\ NAu) \times TNA(B)]}$$

In addition, a credit calculated monthly should be preserved in order to avoid annual programmes being upset by scheduling transfers over time frames greater than monthly.

Finally, CRE believes that the terms TR and TUCR must be paid in terminals A and B in the same way as if they concerned a cancellation in terminal A and a new subscription in terminal B. It is therefore in favour of the proposal by the terminal operators on this point.

3. Reservation and billing procedures of a pooling operation

3.1. Proposal by operators

The detailed reservation and billing procedures proposed by operators are described in the technical proposal attached to this deliberation.

In particular:

- the fixed pooling credit would be determined at the end of month M by the terminal A (departure terminal) operator, according to the quantities actually unloaded by the shipper and the actual number of berthing operations in terminal A;
- on the basis of this fixed credit, the terminal B (arrival terminal) operator would determine the amount to be charged to the shipper in the framework of the pooling operation.

If the fixed pooling credit for month M was different from the estimate which had been forwarded during the month in question by the terminal A operator, the shipper would be charged the more expensive between the estimate and the actual cost.

In the case where the shipper would like to use their pooling credit for several pooling operations during month M, the credit would be assigned to the operations in the order in which they were reserved. The amount allocated to each previous subscription via the pooling service would then be gradually decreased.

3.2. Responses to the public consultation

The two contributors to the public consultation spoke on this point of a desire to calculate the tariff for the pooling operation billed to take into account the credit actually available in all cases, and not the most expensive between the estimate and the actual cost. One actor actually says that this would prevent a shipper from minimising the estimated credit in order to avoid to be charged on the basis of this estimated credit and even the actual credit.

3.3. CRE's analysis

CRE concurs with the analysis of the actors who responded on this point. It considers that it is not relevant to charge a shipper the more expensive between the estimated credit and the actual credit.

It therefore asks operators to take account, in the pooling operation price calculation, the credit actually available.

4. Rules on operational management of a pooling operation

4.1. Proposal by operators

In the case where a shipper does not have a framework contract with the terminal in which it wishes to unload via the pooling service, such a contract should be signed before the date of the operation.

The pooling request is treated as an intra-monthly subscription request described in the operators' access contracts, particularly in terms of acceptable impact on the scheduled emission for the other shippers and the emission profile. A shipper wishing to use their pooling credit would benefit from the same level of priority as a shipper wishing to subscribe to an intra-monthly operation (regardless of the type of operation: unloading, reloading or transhipment).

4.2. Responses to the public consultation

The participants of the public consultation who expressed an opinion on this point are all in favour of the proposal by the terminal operators.

4.3. CRE's analysis

CRE is in favour of the operational procedures proposed, which help to ensure that the pooling operations for a month M will not have an impact on unloading operations planned before the 20th of month M-1.

5. Decision by CRE

CRE approves the implementation, by the operators of the regulated LNG terminals, of the intra-monthly capacities pooling service under the following conditions:

- the changes below will be made to the initial proposal by the operators:
  - in the formula for calculating the tariff for a pooling operation, the term 0.3 shall become 0.1;
  - billing for a pooling operation will take into account the actual credit available.
- the procedures for marketing this service will be published on the operators' website.

This service will be offered on an experimental basis until the entry into force of the ATTM5 tariff.

CRE is asking operators to provide feedback in LNG Consultation on their experience of this service by 31 October 2016. CRE will explore the opportunity to continue with this service in the framework of the ATTM5 tariff work.

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

Signed in Paris, on 17 December 2015,

For the Regulatory Commission of Energy

The president,

Philippe de Ladoucette