COMMISSION DE RÉGULATION DE L'ÉNERGIE

DELIBERATION NO. 2020-292

Deliberation of the French Energy Regulation Commission of 03 December 2020 forming a draft decision on the tariff for the use of regulated LNG terminals

Translated from the French: only the original in French is authentic

Participants in the meeting: Jean-François Carenco, President, Christine Chauvet, Catherine Edwige, Ivan Faucheux and Jean-Laurent Lastelle, Commissioners.

Articles L.452-2 and L. 452-3 of the French Energy Code empower the French Energy Regulatory Commission (CRE) to set the methodology for establishing tariffs for the use of liquefied natural gas (LNG) facilities. CRE can make any changes to the tariff levels and structure which it deems justified with regard to, in particular, an analysis of the operators' expenses and any expected changes in operating and investment expenses.

The current rate of use of the LNG terminals of Elengy and Fosmax LNG, known as the ATTM5 tariff, came into force on 1 April 2017, in accordance to the deliberation of 18 January 2017[1], for a period of approximately four years. The new tariff for the use of regulated LNG terminals, known as ATTM6, will come into force on 1 April 2021.

Key issues

In 2019 and 2020, in a context of the return of LNG to Europe, Elengy made several calls to the market to enable players to subscribe to the terminal capacities over long horizons. At the end of these procedures, the capacities of the Montoir terminal (123 TWh) are almost fully subscribed until 2035. Fos Tonkin's business, whose long-term subscriptions expired at the end of 2020, was able to be sustainable thanks to subscription commitments up to 2028, for a volume of activity at the site, however it is reduced compared to previous years (18 TWh from 2021, compared to 35 TWh previously). Furthermore, the capacities of the Fos Cavaou terminal (100 TWh) are 87% subscribed until 2030.

The pricing of LNG terminals and, more broadly, all the access rules to these infrastructures, play an important role in order to ensure the proper functioning of the wholesale gas market. As France imports almost all the gas it consumes, the conditions for accessing the French market and its attractiveness are therefore essential.

Unlike transport networks, European LNG terminals do not constitute natural monopolies, and are in direct competition with each other. Over the last decade, the commissioning of several major terminals in Europe and the growth of new uses (bunkering, transhipment, truck loading) have strengthened the European competition to which regulated LNG terminals were already exposed. In this context, controlling expenses, as well as the flexibility of the services offered to users of the terminals, are essential for their competitiveness.

Ensuring the safety of people and property is a major issue, and Elengy must maintain a high level of security on its infrastructure, such as cybersecurity or taking account of the ageing of physical infrastructure. This is in particular the case of the Montoir terminal which is 40 years old in 2020 and is highly loaded. The ATTM6 tariff takes into account the increase in maintenance requirements at Montoir.

Finally, CRE considers that the gas infrastructure is now sufficiently dimensioned. The stagnation of gas consumption for 10 years and its predictable decline by 2030 and beyond, particularly within the framework of the energy transition objectives, have led CRE to be particularly vigilant for the future on investment expenditure and the risks of stranded costs.

[1]CRECRE deliberation of 18 January 2017 on the decision relating to the tariffs for the use of regulated LNG terminals

CRE considers that the tariff of LNG terminals must take these issues into account, in addition to the simplicity, predictability and continuity objectives.

Tariff level

Elengy, the operator of regulated LNG terminals, made a request for tariff changes setting out its projected costs for the period 2021-2024, as well as its requests relating to the regulatory framework, the pricing structure and the offer.

The consideration of the elements of the tariff demand sent to CRE by Elengy would lead to changes, on 1 April 2021, of the average unit rate of -11.5% for Montoir, -23.1% for Fos Tonkin and +5.9% for Fos Cavaou.

These changes result in particular from the decrease in the weighted average cost of capital by 100 basis points in application of the change of the rate applicable to the ATRT tariff and the increase in capacity subscriptions at Montoir. In the case of Fos Tonkin, the decrease is also linked to the complete depreciation of the infrastructure at the end of 2020 and the reduction of its activity from 2021.

With regard to operating expenses, CRE considers the operating expense trajectories requested by Elengy too high in view of the realignment of recent years and the projected evolution of the activity: Elengy's demand provides for an increase in average expenditure between 2019 and the 2021-2024 period of +20.5% for Montoir and +12.0% for Fos Cavaou. At Fos Tonkin, the change to the average spending between 2019 and the ATTM6 period requested by Elengy is -35.8% due to the drop in the terminal's activity.

In its operating expense trajectory for ATTM6, CRE adopted Elengy's requests for staff and maintenance on ageing assets. It recalls the growing interest in preventive maintenance to avoid costly reinvestments in assets and ultimately limit the risk of stranded costs. CRE nevertheless limits the increase in Elengy's net operating expenses on other items, such as overheads, rents and fees or energy costs. Finally, the 2021 budget bill forecasts, a significant, on-going reduction in production taxes and duties that will reduce Elengy's costs, CRE takes account of these effects.

Furthermore, CRE considers that certain charges are incorrectly distributed between the different terminals and it corrects this distribution in its decision.

CRE recalls that all investments, including maintenance and replacement investments, are taken into account via the CRCP.

CRE adopt a weighted average cost of capital corresponding to the rate applicable to ATRT7, which is 4.25% actual before tax, plus a specific LNG business premium. It maintains the level of this premium at 200 basis points, except for all the new assets of the Montoir terminal. In this terminal, the depreciation period of the new assets cannot now exceed 20 years. Given the resulting reduction in the risk of stranded costs, the specific bonus applicable to all of these new assets is set at 150 basis points.

Finally, the ATTM6 tariff takes into account, in the construction costs of the Fos Cavaou terminal, the consequences of the conclusion of the legal procedure which opposed Fosmax LNG to the manufacturer STS.

The current euro evolution between the average allowed income for the ATTM5 and ATTM6 period will be -16.5% for Montoir, -62.0% for Fos Tonkin (due to the full depreciation of investments in previous periods and the restructuring of the terminal whose capacity is changing from 35 to 18 TWh) and -1.5% for Fos Cavaou.

Given the forecast of capacity subscriptions, the ATTM6 unit rate will evolves on 1 April 2021 by - 24.7% for Montoir, -24.2% for Fos Tonkin and +0.1% for Fos Cavaou.

Framework applicable to the small-scale LNG bunkering activity

In the context of the development of new activities and competition between European terminals, the commercial agility of operators is a major issue. To enable Elengy to best adapt its service to the needs of the market, and to make the investments necessary to grow this activity, CRE adopts Elengy's request to leave the small-scale LNG vessels reloading activity regulated scope (ships with a capacity of less than 40,000 m^3).

Tariff regulatory framework

CRE decides on several changes concerning the regulatory framework applicable to Elengy's investments. On the one hand, it considers that the gas infrastructure is sufficiently developed and that it is, therefore, no longer necessary to encourage operators to develop new regasification capacities. It, therefore, plans to remove the incentive bonus that it applied to this type of project. In addition, CRE considers it important to encourage operators to control the costs of carrying out their major projects, and introduced an incentive regulation on costs for projects with a budget of more than €10 million to the ATTM6 tariff.

Finally, CRE introduces a quality of service incentive system to the ATTM6 tariff concerning two priority themes: respect for maintenance programmes, and the environment (GHG and methane emissions).

Tariff structure and offer

CRE adopts a tariff structure in line with that of the previous tariff.

The ATTM6 tariff resumes existing services that provide overall satisfaction to LNG terminal users. CRE also introduces several changes to this tariff proposed by Elengy with two objectives:

- on the one hand, strengthen the attractiveness of regasification services, in particular by allowing users to better anticipate their capacity reservations or benefit from additional flexibility: introduction of a capacity reservation within a given quarter, dedicated and specific storage marketing;
- on the other hand, take into account the development of new activities (reloading small-scale LNG vessels, truck loading): introduction of storage flexibility adapted to their specific needs.

This deliberation will be forwarded for the opinion of the French Higher Energy Council.

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1. TARIFF PREPARATION REMITS AND PROCESSES

1.1 CRE's remit

Article L. 134-2, 4 of the French Energy Code empowers CRE for setting the rules concerning the "*conditions for the use [...] of liquefied natural gas facilities, including the methodology for establishing tariffs for using these [...] facilities and tariff evolutions [...]*".

Articles L. 452-1, L. 452-1-1, L. 452-1-2, L. 452-2 and L. 452-3 of the French Energy Code determine CRE's tariff-related powers.

Article L. 452-1-2 provides in particular "*the tariffs for the use of liquefied natural gas facilities, including facilities providing ancillary services and flexibility, the commercial conditions for the use of these facilities, as well as the tariffs for ancillary services provided by the operators of such facilities, shall be established transparently and in a non-discriminatory manner, in order to cover all the costs borne by these operators, insofar as these costs correspond to those of an efficient plant operator. These costs take into account the characteristics of the service provided and the costs related to this service.*"

Article L.452-2 stipulates that CRE sets the methods used to establish the tariffs for use of liquefied natural gas facilities. In addition, article L.452-3 states that *"The French Energy Regulatory Commission decides on tariff changes [...] with, if necessary, tariff level and structure changes that it considers justified, specifically with regard to the analysis of operators' accounting systems and foreseeable changes to operating and investment costs.* [...]". CRE's deliberation may provide for "*a multi-annual framework for the changes in tariffs and appropriate incentives in the short or long term to encourage operators to improve their performance linked, in particular, to the quality of service rendered, the integration of the internal gas market, the security of supply and productivity efforts*."

The same article states that "*the French Energy Regulatory Commission shall take into account the energy policy guidelines set out by the Ministers for Economics and Energy.*" In this case, CRE has not received any energy policy guidelines specific to LNG terminals.

Finally, Article L. 452-3 also provides that CRE "*proceeds, in accordance with terms and conditions that it determines, in consultation with the actors of the energy market.*"

By this deliberation, CRE defines the methodology for setting the tariff for the use of regulated LNG terminals, and sets the so-called "ATTM6" tariff.

1.2 Tariff preparation process

Given the need for visibility of interested parties and the complexity of the topics, CRE organised two public consultations, published in French and English, before making this draft decision:

- The first one, dated 14 February 2019, was related to the regulatory framework applicable to the regulated infrastructure operators for the next generation of tariffs. 41 responses were received;
- the second consultation, dated 30 July 2020, questioned interested parties on CRE's preliminary guidance on the level of charges to be covered and the resulting tariffs level, the structure and offer of LNG terminals. 16 responses were received, including 4 shippers, 6 infrastructure operators and 6 professional associations and trade unions.

Non-confidential responses to these two public consultations are published on CRE's website.

CRE also, as part of the preparatory work for this deliberation, interviewed Elengy, as well as its shareholders.

2. ALLOCATION OF COSTS BETWEEN REGULATED AND UNREGULATED ACTIVITIES

2.1 Presentation of the various services

French LNG terminals allow the import and regasification of natural gas. They do not allow liquefying or exporting gas from the network and are therefore only supplied by LNG cargo unloadings.

Over the past few years, French LNG terminals have adapted to meet an increasing need for flexibility expressed by shippers. Thus, LNG is no longer only used for regasification but can also be temporarily stored in the terminal tanks to be reloaded on another LNG tank, transhipped directly from one vessel to another, or loaded into tank trucks to supply the retail market (LNG carried).

In addition, LNG can be loaded on small-scale LNG carriers (ships with a capacity of less than 40,000 m^3), whose main function is the "bunkering" activity, i.e. the supply of fuel to LNG vessels (containers, ferries, cruise ships).

Some of these activities are regulated and other competitive.

In the ATTM6 tariff, the regulated services are:

- the unloading of LNG vessels;
- tank storage;
- regasification and emission on the transmission network;
- the reloading of LNG tankers;
- a set of other specific services forming part of the terminal's day-to-day activity (approval of vessels, cooling, etc.).

Unregulated services include:

- transhipment;
- the loading of tank trucks;
- the loading of small-scale LNG vessels ≤ 40,000 m³ (see Part 2.2).

2.2 Non-regulation of small-scale LNG vessels loading service

Since the end of 2018, a small-scale LNG vessel loading service (capacity of less than 40,000 m³, or about 280 GWh) has been offered to Fos Cavaou by Elengy. Elengy developed the business despite an unsuccessful call to the market in 2018, by anticipating its future growth due in particular to the change to environmental regulations. In this context, more and more different types of vessels (containers, cruises, ferries, etc.) will use LNG as fuel in the future.

In its tariff demand, Elengy requested that the loading of small-scale LNG vessels should no longer be considered a regulated activity as of the entry into force of the ATTM6 tariff, indicating that the low unit volume of this activity, which does not or barely constrains the management of the terminal, has no impact on the emissions to the transmission network and does not affect the scheduling of large LNG vessels.

Furthermore, the LNG refuelling market is highly competitive, particularly in the Mediterranean Sea. Considering this environment, Elengy wants to have greater leeway in the establishment of its commercial offer and in the development of dedicated assets.

In its public consultation on 30 July 2020, CRE was in favour of this request, considering in particular that the small-scale LNG vessel loading service does not use the facilities to regasify the LNG and issue it to the transmission network.

Respondents to the public consultation unanimously favour the non-regulation of the small-scale LNG vessel loading service, considering that this will give Elengy the flexibility to adapt its offer to the market needs. Several contributors indicated that it will be necessary to ensure that there will be no cross-subsidies between regulated and unregulated activities in the event of non-regulation of this service.

Consequently, as of the entry into force of the ATTM6 tariff, this service is no longer part of the regulated scope.

As is the case with unregulated transhipment and tank truck loading services, the small-scale LNG vessel loading service uses shared terminal means in their current configuration, particularly berths. The provision of a small-scale LNG vessel loading service in an unregulated framework is, therefore, conditional on the implementation of organisational and accounting measures capable of ensuring transparency of the allocation of the respective costs of the various services and, in particular, to guarantee the allocation of the costs generated by the small-scale LNG vessel loading service to theirs specific users.

2.3 Principle and method of allocation of expenses

Elengy has developed tank truck loading and LNG transhipment activities into ships in an unregulated framework. The ATTM5 tariff provides for the following tariff treatment for these activities:

- full allocation to these activities of additional costs resulting from their supply. These specific costs are entirely borne by the subsidiary Elengy Hub & Expertise (EHE);
- pro rata allocation of expenses resulting from the pooled use of assets and operating expenses currently covered by the regulated tariffs by application of objective allocation keys and audited by CRE. This use is thus remunerated by the payment of a unit contribution paid by EHE at the regulated tariff.

CRE indicated in its public consultation on 30 July 2020 considering renewing these principles within the framework of ATTM6.

The majority of contributors to the public consultation said they were in favour of CRE proposal. CRE renews these principles, in line with the ATTM5 tariff.

The bunkering activity is still non-existent at Fos Cavaou and its impact will remain marginal on the shared costs of the terminal during the ATTM6 period. Consequently, CRE adopts transitional contribution terms for this service for the ATTM6 tariff. This contribution will progressively evolve according to the turnover actually made by Elengy on this activity.

3. TARIFF REGULATORY FRAMEWORK

3.1 Main tariff principles

The development of the ATTM6 tariff is based on the definition, for the upcoming tariff period, of an allowed revenue for each of the LNG terminals and forecats capacity subscriptions on their respective infrastructure.

The ATTM6 tariff also sets out a regulatory framework which aims, on the one hand, to limit the financial risk of operators and/or users for certain items of predefined charges or products, through an expenses and revenues clawback account (CRCP) and, on the other hand, to encourage operators to improve their performance through incentive mechanisms.

3.1.1 One individual tariff per site

The ATTM3 tariff[2] entered into force on 1 April 2010 introduced the principle of individualisation of the tariff of each terminal, to take into account the costs and specificities specific to each of these infrastructures. This individualisation was maintained in the following tariffs.

CRE renews this principle for the ATTM6 tariff.

3.1.2 Determining the allowed revenue

In this deliberation, based on the demand submitted by the operators and its own analyses, CRE sets the projected forecast allowed income of each LNG terminal over the period 2021-2024. The allowed revenue covers the costs of operators on a calendar basis as long as those costs correspond to those of an efficient operator.

This forecast allowed revenue consists of the provisional net operating expenses (NOE), the provisional normative capital charges (NCC), the clearing of the balance of the expenses and revenues clawback account (CRCP):

$$RA = NOE + NCC + CRCP$$

Where:

- RA: provisional allowed revenue for the period;
- NOE: projected net operating expenses for the period;
- NCC: forecast normative capital charges for the period;
- CRCP: clearing of the expenses and revenues clawback account;

3.1.2.1 Net operating expenses

The net operating expenses (NOE) are defined as the gross operating expenses, from which the operating income is deducted (own work capitalised and the non-tariff income in particular).

The gross operating expenses consist mainly of energy costs, external consumption, staff expenses and taxes.

The level of the net operating expenses retained is determined from all the required costs involved in the operators' activity to the extent that, pursuant to Article L. 452-1-2 of the French Energy Code, these costs correspond to those of an efficient LNG terminals operator.

3.1.2.2 Normative capital charges

Normative capital charges (NCC) includes remuneration and depreciation of capitalised assets. The calculation of these two components is based on the valuation and development of assets operated by Elengy – the regulatory asset base (RAB) – and assets under construction (AuC), i.e. investments made that have not led yet to the commissioning of assets.

The CCNs correspond to the sum of the depreciation of the assets making up the RAB and the remuneration of capitalised assets. The latter corresponds to the product of the value of the RAB by the rate of return determined on the basis of the evaluation of the weighted average cost of capital (WACC) and to the product of the value of the IECs by the cost of debt.

[2] CRE deliberation of 16 July 2009 on the tariff proposal for the use of LNG terminals

NCC = Depreciation of the RAB + RAB x WACC + AuC x cost of debt

3.1.3 Remuneration of assets and coverage of investments

3.1.3.1 Methods for calculating the rate of remuneration

In the absence of regulated LNG terminal operators, CRE uses an indirect approach to define the rate of remuneration for the activity.

For this, CRE first estimates the rate of remuneration for the activity of a natural gas transmission system operator. This activity is of an economic nature similar to that of the activity of an LNG terminal operator and is carried out by stocklisted companies.

The method adopted to evaluate this rate of remuneration on assets is based on the weighted average cost of capital (WACC), for a standard financial structure. In fact, the operator's return should firstly enable it to finance the interest payments on its borrowing, and secondly generate a yield on shareholders' equity comparable to that which it could have obtained 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 then adjusts the rate of remuneration for the activity of natural gas transmission system operators on the basis of economic and financial considerations: it increases this rate of a specific premium related to the activity of a regulated LNG terminal operator, in particular, the increased commercial risk faced by these operators and, therefore, the risk, increased for these operators, of under-recovering long-term capital invested.

The gas transportation WACC bonus only applies to assets operated at LNG terminal sites.

3.1.3.2 Methods for calculating the regulated asset base (RAB)

For the Fos Tonkin and Montoir terminals, CRE undertook a revaluation on 31 December 2002 of the historical value of the operator's assets, on the basis of a "current economic costs" method comparable to that used for transmission assets by the Special Commission instituted by Article 81 of the amended finance bill of 28 December 2001, tasked with setting the price of disposal, by the French state, of its natural gas transmission systems.

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

- historical gross asset values are adjusted 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 re-valued 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.

For the Fos Cavaou terminal, the initial RAB has been established by taking account of investments plus operating expenses and financial costs prior to the terminal's entry into service. The date selected as the terminal's entry into service for the tariff is the actual date it entered into service, 1 April 2010.

The assets put into service between 1 January 2003 and 31 December 2020 for the Fos Tonkin and Montoir terminals and between 1 April 2010 and 31 December 2020 for the Fos Cavaou terminal are integrated into the BAR at their gross value. Planned investment from 1 January 2021 is included at its gross forecast 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 actually in service are included within the RAB.

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

- assets are re-valued on 1 January each year using the rate of inflation for the period July to July. Until 2015, the revaluation index used is the French Consumer Price Index excluding tobacco 641194, as calculated by INSEE for all households residing in France. As of 2016, and following the termination of the publication by INSEE of this index, the revaluation index used is the French Consumer Price Index excluding tobacco 1763852, for all households residing in France;
- 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 service prior to that date.

3.1.3.3 Methods for the remuneration of assets under construction

The ATTM6 tariff reiterates the principle of remuneration for assets under construction (AuC) at the nominal equivalent of the cost of pre-tax debt (increased by the specific LNG premium), consistent with the methodology generally used for interim interest.

The amount of these AuCs shall be equal to the average, for each year of application of the tariff, between their estimated level on 1 January and 31 December, taking into account investment expenditure and asset commissioning during the year.

3.1.3.4 Depreciation of assets put into service

In the ATTM5 tariff, the depreciation periods by asset type are as follows:

Asset category	Economic lifespan (years)
Regasification facilities	40
Civil engineering and buildings	40
Storage facilities	40
Other facilities (flares, tools, etc.)	40
Auxiliary and unloading facilities	20
Equipment (remote operations, gas quality analysers, etc.)	10
Real estate	30
Miscellaneous equipment (vehicles, etc.)	10
Minor equipment (micro-computers, etc.)	5

In its tariff demand, Elengy considered that the European outlook for carbon neutrality or a very sharp reduction of fossil fuels by 2050 reduces its ability to project its commercial activity beyond the expiry of long-term subscriptions (2035 in Montoir, 2030 in Cavaou and 2028 in Tonkin). Furthermore, Elengy considered that longer depreciation periods are no longer in line with the subscription commitments, which do not exceed 20 years, or even sometimes 10 years.

In this context, Elengy considered it appropriate to adopt a prudent approach with regard to the asset depreciation methods in order to limit the risk of stranded costs and requested in its tariff proposal to adapt the depreciation periods of certain investments, so that the depreciation maturity is less than the maturity horizon of the long-term subscriptions. Elengy proposed the following:

- the depreciation period of investments commissioned from 2021 is limited to 20 years for the Montoir and Fos Cavaou terminals;
- the depreciation of the assets commissioned in the Montoir and Fos Cavaou terminals between 2011 and 2020 to be accelerated to reach a total depreciation period limited to 20 years, without altering past depreciation.

Fos Tonkin's assets are not affected by this request, with Elengy having proposed specific amortisation methods within the framework of the call to the market procedure launched in 2019 to extend the terminal's activity: the new investments in this terminal will be amortised by 2028, which corresponds to the end of subscriptions for this terminal.

In its public consultation of 30 July 2020, CRE expressed a favourable opinion on Elengy's request, the proposed approach corresponding to that of a prudent operator and to reduce the risk of stranded costs in the long term. However, CRE had found that the reduction in the depreciation period of certain LNG terminal assets leads to a reduction in the commercial risk borne by Elengy. Indeed, a larger proportion of depreciation is reduced over the next few years, and therefore, over the period covered by the current long-term subscriptions. Elengy, therefore, bears a lower risk of stranded costs.

CRE, therefore, considered that the specific premium level should be adapted to take this risk reduction into account. It considered that the investments concerned by the shortening of the depreciation period would have a premium to a level between 100 and 125 basis points applied.

Responses to the public consultation were shared on the proposal to shorten depreciation period. While the majority of players share the desire to reduce the risk of stranded costs, some question the relevance of this development

for assets already commissioned. Indeed, these investments were made before the announcement of the energy transition guidelines on the French energy mix and granted with a view to building the infrastructure necessary to meet the needs and security of supply.

For its part, Elengy withdrew its request for investments decided between 2011 and 2020 and wants only new investments in Montoir and Fos Cavaou to be affected by the reduction in the depreciation period.

CRE maintains its favourable analysis of the reduction in the depreciation period of certain assets, which corresponds to prudent operator behaviour and to reduce the risks of stranded costs in the medium term, particularly in the context of the major renovation investments planned for the ATTM6 period on the Montoir terminal. However, CRE is also vigilant to preserve the stability of the remuneration framework over time put in place and considers it relevant to keep the remuneration framework in place for the duration of the decision on these investments. Consequently, on the Montoir terminal, only the depreciation periods of new assets that will enter into service from 2021 will be shortened to a maximum of 20 years.

The Fos Cavaou terminal is in a different situation: the terminal has only been in operation for a decade, and the planned investments over the ATTM6 period will have depreciation periods less than or equal to 20 years. Consequently, CRE considers that the question of the reduction of the depreciation period may be examined subsequently, depending on, where appropriate in the future, the emergence of major investment needs at the Fos Cavaou terminal.

Consequently, the assets commissioned from 2021 at Montoir will have a depreciation period limited to 20 years (see table below).

Asset category	Economic lifespan (years)
Regasification facilities	20
Civil engineering and buildings	20
Storage facilities	20
Other facilities (flares, tools, etc.)	20
Auxiliary and unloading facilities	20
Equipment (remote operations, gas quality analysers, etc.)	10
Real estate	20
Miscellaneous equipment (vehicles, etc.)	10
Minor equipment (micro-computers, etc.)	5

Furthermore, Elengy reiterated its request to maintain the premium of 200 basis points for all its assets, considering that the reduction in the premium associated with the acceleration of depreciation is not justified and that it bears risks beyond those covered by the 200 basis points premium.

CRE maintains its analysis regarding the reduction of the remuneration premium associated with this change in the depreciation period for the Montoir terminal, given the decrease in the risk of stranded costs that it allows. Consequently, it retains a specific premium level reduced to 150 basis points for all the investments of the Montoir terminal which will enter into service from 1 January 2021.

3.1.3.5 Treatment of stranded costs

'Stranded costs' means the residual book value of assets removed from the inventory before the end of their lifetime, as well as the costs related to technical studies and upstream processes that could not be capitalised if the projects were not carried out.

The coverage of stranded costs will be examined by CRE on a case-by-case basis, based on justified files presented by the operators.

The costs to be covered, where applicable, by the tariff, shall be taken into account up to their accounting value, minus any sales proceeds.

3.1.4 Principle of the CRCP

The ATTM tariff is defined by CRE based on hypotheses on the forecast level of charges and subscription revenues. A *post hoc* adjustment mechanism, the expenses and revenues clawback account (CRCP), was introduced in order to take into account all or part of the differences between the expenditure and income actually observed, and the

forecast expenditure and the income in the pre-defined items (see section 3.3.1.2). The CRCP therefore protects operators from a change to certain cost or revenue items. The CRCP is also used for the payment of financial incentives resulting from the application of incentive regulatory mechanisms as well as for taking into account any stranded costs once validated by CRE.

The balance of the CRCP is calculated on 31 December of each year. Under the ATTM5 tariff, the settlement of the balance of this account was carried out over four years, in constant annuities, taken into account as part of the tariff changes implemented on 1 April of each interim revision (every two years), through a reduction or an increase in income to be recovered by the tariff.

The other infrastructure tariffs (electricity TURPE, ATRD, ATRT in gas) also include a CRCP, whose clearance method is different: it is reconciled over a period of one year up to the limit of an annual tariff change associated with this clearance limited to +/- 2 %; in the event that the cap is reached, the outstanding balance is deferred to the following year. At the end of the tariff period, the total balance of the CRCP is reflected in the allowed revenue of the next tariff period.

In its public consultation on 30 July 2020, CRE proposed to implement this clearance method taking into account the specificities of the ATTM6 tariff. The CRCP would be cleared over a period of two years, in order to take into account the specific rate of updating the tariff for using LNG terminals. In addition, in order to also take account of this biannual update, the balance of the CRCP would be cleared up to +/- 3%.

Contributors were in favour of harmonising the CRCP clearance method and considered, like CRE, that this method of clearance should take into account the specificities of LNG terminals.

For the ATTM6 tariff, the balance of the CRCP will be calculated on 31 December each year. For each terminal, the balance of the CRCP will be cleared over a period of two years, up to the limit of a tariff change associated with this clearance of +/- 3%.

To ensure the financial neutrality of the mechanism, a risk-free interest rate taken into account in the WACC calculation will be applied to the CRCP balance (1,7%).

Lastly, the total CRCP balance found at the end of the tariff period will take into account for the allowed revenue for the following period. This is the case for the balance of the CRCP at the end of the ATTM5 period.

3.2 Tariff schedule

3.2.1 A tariff period of about 4 years

The ATTM6 tariff will apply for a period of approximately 4 years, starting on 1 April 2021. It aims to cover the charges for the calendar years 2021 to 2024. It will change mid-period on 1 April 2023.

In their responses to the consultation on 14 February 2019 on the tariff regulatory framework, market participants expressed their support for maintaining this period of approximately 4 years, considering, like CRE, that it provides the market with visibility into the change of infrastructure tariffs and that it allows operators the time necessary to commit productivity efforts.

Furthermore, the ATTM6 tariff provides, as was the case for the previous tariff, a review clause, which can be activated by Elengy at the end of two years. As a result, the possible consequences of new legal or regulatory provisions or a jurisdictional or quasi-jurisdictional decision may lead to a re-examination of the tariff trajectory for the last two years of the tariff period (2023 and 2024) if the level of the net operating expenses retained in the ATTM6 tariff was modified by at least 1%.

3.2.2 Principles of the biannual tariff change

CRE renews the mid-period tariff change principle, introduced since the ATTM4 tariff, which came into force in 2013. The tariff for using LNG terminals will change on 1 April 2023, according to the following principles:

1) the variable tariff terms of each terminal will be automatically adjusted on 1 April 2023, by applying the following percentage change to all variable tariff terms in force on 31 March of the year:

$$Z = CPI + k$$

Where:

- CPI is the rate of inflation corresponding, for an adjustment to the price grid on 1 April of year N, to the projected inflation rate for year N taken into account in the draft budget bill for year N;
- k is the change in the tariff, expressed as a percentage, mainly resulting from the clearing of the clawback account (NCC, subscription revenues, energy costs, contributions of unregulated businesses to the regulated charges, etc.); k is between +3% and -3%.

2) the provisional reference used for the calculation of the CRCP for the two following year will be updated for the following items:
    - energy costs and CO_2 quotas;
    - subscription incomes;
    - R&D expenses.
3) furthermore, CRE may take into account, during the intermediate change to the ATTM6 tariff, changes linked in particular to:
    - modifications to the operators' offering;
    - changes to the incentive regulation of operator quality of service.

3.2.3 Calculation of the CRCP balance on 1 January of year N

The total balance of the CRCP is calculated before the final closure of the annual accounts. It is therefore equal to the amount to be paid or deducted from the CRCP (i) for the past year, on the basis of the best estimate of the annual charges and revenues (the estimated CRCP), and (ii) for the previous two years, compared to the charges and revenues made and the estimate made two years earlier (known as the final CRCP), plus the balance of the CRCP not cleared for previous years.

The estimated balance of the CRCP as at 31 December 2020 is taken into account for the preparation of the estimated revenue of the ATTM6 tariff cleared over the 4 years of the tariff and is therefore returned to 0 on 1 January 2021.

The final differences to be paid to the CRCP for 2020 will be taken into account during the interim update on 1 April 2023. The reference amounts and coverage rates to calculate this final balance are defined in the ATTM5 tariff update deliberation of 15 November 2018[3].

The amount to be paid or deducted to the CRCP shall be calculated by CRE, as at 31 December of each year, based on the difference of that realised, for each item concerned, in relation to the reference amounts defined in 3.1.1. All or part of the difference is paid to the CRCP, the share is determined according to the coverage rate provided for in this deliberation.

The charges and revenues covered for all or part of the CRCP for the ATTM6 period are set out in 3.3.1.2 of this deliberation.

3.2.4 Calculation of coefficient k for the clearance of the CRCP

The evolution of the mid-period tariff level takes into account a coefficient k which aims to compensate, as at 31 December of year N+1, the balance of the CRCP recorded as at 31 December of year N-1. The coefficient k is capped at +/- 3 %.

The coefficient k is determined in such a way that the price change actually implemented allows cover, within the limit of the k coefficient caps, the amount of the following costs to be covered:

- the updated forecasted allowed income for years N and N+1 (see Appendix 3 of the deliberation);
- the provisional clearance of the CRCP balance, over years N and N+1.

The provisional income resulting from the application of the tariffs actually implemented over this period are based on the provisional subscriptions considered in this deliberation.

3.3 Incentive-based regulation on cost control

3.3.1 Incentive-based regulation of operating expenses

3.3.1.1 No coverage on the CRCP for most operating expenses

The ATTM5 tariff provides that the net operating expenses, with the exception of certain pre-defined items difficult to control for operators, have an incentive at 100%: CRE sets a trajectory for the tariff period, and any difference in relation to this trajectory remains the responsibility or for the benefit of the operator. This mechanism encourages operators to optimise productivity gains and promote the best solutions for the system.

Given the positive review over the last ten years and the favourable assessment of the actors made within the framework of the public consultations on 14 February 2019 and 30 July 2020, CRE renews this principle for ATTM6.

[3] CRE deliberation of 15 November 2018 deciding on the tariff change for the use of liquified natural gas regulated LNG terminals as of 1 April 2019

Thus, with the exception of certain changes in the types of expenses and incomes fully or partially covered through the CRCP, presented in paragraph 3.3.1.2 of this deliberation, any deviation from the trajectory set for the ATTM6 period shall remain the responsibility or for the benefit of the operator.

3.3.1.2 Coverage by CRCP of certain items

The regulated infrastructure tariffs are calculated based on assumptions on the charges and revenues used to define the development trajectories for the various items.

As indicated in paragraph 3.1.4 of this deliberation, *post-hoc* adjustment mechanism, the CRCP, enables to take into account the differences between the charges and the income actually observed, and the forecast expenditure and income for certain identified items that are not very predictable and cannot be controlled by the operators of LNG terminals.

CRE considers that the integration of an item in the CRCP must be understood in light of the following two factors:

- predictability: a predictable item is an item for which it is possible, for the operator and for CRE, to provide, with reasonable confidence, the level of costs incurred and the incomes perceived by the operator over a tariff period;
- control: a controllable item is an item for which the operator is able to control the level of expenditure/income during a year, or has a power or influence with regard to its level, if it results from a third party.

On this basis, CRE consulted on the scope of the CRCP to be used for the ATTM6 tariff, in the public consultation of 30 July 2020. The participants in the consultation are generally in favour of the proposed scope.

CRE renews the coverage terms provided for in the ATTM5 tariff for the items of expense and revenue included in the following CRCP scope:

- incomes from additional unloading capacity subscriptions and additional services offered by operators (quarterly capacity reserve, *pooling*, flat send-out option, contractual storage space, emission flexibility in Fos-Cavaou, etc.), 75% covered;
- income related from additional subscriptions for the LNG vessel reloading service will be 75% covered by the CRCP;
- normative capital charges borne by operators, 100% covered, with the exception of those which will be the subject of the incentive-based regulation mechanism of "non infrastructure" capital charges (see part 3.3.2.3) and for which only the inflation difference will be taken into account;
- income related to the LNG exchange point access service, 50% covered;
- the cost and income item for unregulated services, 100% covered.

In addition, this deliberation introduces:

- for operating expenses, an item covering the difference between forecast inflation taken into account by CRE during updates to operators' operating expenses and actual inflation, 100% covered by the CRCP;
- an item concerning the R&D trajectory: the special treatment is detailed in paragraph 3.5 of this deliberation;
- an item concerning the Montoir maintenance trajectory: the special treatment is detailed in paragraph 3.6 of this deliberation;
- an item concerning the Fos Cavaou bioploymers trajectory: the special treatment is detailed in paragraph 3.7 of this deliberation;

Finally, this deliberation amends:

- the coverage rate for electricity and CO_2 charges, the differences of which are currently 90% covered. In order to further encourage operators to control these charges, the coverage rate is reduced to 80% on the differences between that forecast and that achieved. This treatment is similar to ATRT7 and ATS2.

3.3.2 Incentive Regulation Mechanism for Investments

Over the last 15 years, regulated infrastructure operators have significantly developed their infrastructure, creating new interconnection capacities with neighbouring countries and increasing entry capacities from the LNG terminals and the strengthening of the national network to eliminate congestion and create the single market area. These

improvements have allowed consumers to benefit from a more diverse supply sources and have reinforced France's integration within the European gas market.

CRE considers that the French regulatory infrastructure systems is currently sufficient. Furthermore, the stagnation of consumption for ten years and its predictable change by 2050, led CRE to be particularly vigilant in the examination of any new investment project.

In this respect, CRE reiterates that any project to expand regasification capacities must be the subject of economic tests in order to prevent the risk of stranded costs.

3.3.2.1 Incentive for controlling costs for investments with a budget of over €10 million

The ATTM5 tariff provides for a mechanism encouraging operators to control the costs of their investment projects, for investments in excess of €20 million or for projects benefiting from the incentive regulatory mechanism for the development of new regasification capacities according to the following principles:

- for projects benefiting from the regulatory mechanism for the development of new regasification capacities, the application of the premium for ten years is limited to the estimated investment budget;
- the remuneration of investment expenditure which differs from the forecast budget varies according to the level of these deviations;
- the remuneration for assets under construction (AuC) is suspended beyond the planned commissioning date of the investments;
- for projects that are the subject of a call for tender, an exit clause may be introduced for subscribers, exercisable in the event of a significant overrun of the projected project cost at the end of the detailed studies, subject to the assumption of any stranded costs generated by this clause.

This mechanism has not been applied under ATTM5.

The electricity and gas transmission tariffs in force provides that the projects concerned are the subject to an audit allowing a target budget to be set, and that a bonus or penalty is allocated to the operator depending on the difference between the target budget and the expenses actually observed, with a neutrality range around the target budget.

CRE presented its proposal to extend this system to the regulated methanol terminals in its public consultation on 30 July 2020. The majority of the contributors expressed their commitment in favour of this extension.

In view of the positive review of the mechanism, CRE harmonises the cost incentive mechanism for investments of more than €20 million with that of the deliberation of 23 January 2020 concerning ATRT7, however by adapting the threshold to the main projects of a LNG operator.

Consequently, for ATTM6, for investment projects whose decision to commit expenses will be made as from the entry into force of this deliberation and whose estimated budget is greater than or equal to €10 million:

- prior to the commitment by the operator of the implementation expenses, CRE will set a target budget;
- regardless of the investment expenditure incurred by the operator, the asset will enter the RAB at its real value when it is commissioned (minus any subsidies);
- if the investment expenditure incurred by the operator for this project is between 95% and 105% of the target budget, no premium or penalty will be awarded;
- if the investment expenditure made is less than 95% of the target budget, the operator will receive a premium equal to 20% of the difference between 95% of the target budget and the investment expenditure made;
- if the investment expenditure incurred is higher than 105% of the target budget, the operator shall bear a penalty equal to 20% of the difference between the investment expenditure incurred and 105% of the target budget.

For the Montoir-de-Bretagne terminal, the projects concerned would be:

- renovation of the berths;
- the regulatory compliance of the regasifiers;
- the electrical renovation and command control programme.

For the Fos Cavaou terminal, the only project concerned is the installation of a high-pressure compressor.

This list is not exhaustive, as new projects may appear during the period covered by the ATTM6 tariff.

3.3.2.2 Removal of incentives for projects to create new regasification capacities

Since then, the ATTM3 tariff, the tariff for using LNG terminals provided for an incentive mechanism for new regasification capacity creation projects. This mechanism was not applied during the ATTM5 tariff.

CRE considers that France has sufficient regasification capacities to allow the diversification of gas supply and integration into the European market. In addition, despite the significant demand observed in 2019, the capacity of LNG terminals is not yet fully used. Consequently, CRE considers that it is no longer necessary to encourage the development of new regasification capacities and in the consultation it proposed removing this system in the ATTM6 tariff. The majority of contributors share CRE analysis.

CRE, therefore, decides to remove the incentive to develop new regasification capacities in the ATTM6 tariff.

3.3.2.3 Incentives for controlling costs for "non-infrastructure" investments

CRE reviewed a mechanism in the ATRT7 tariff encouraging transmission operators to control their capital expenditure in the same way as their operating expenses on a scope of so-called “non-infrastructure” investments comprising assets such as real estate, vehicles and information systems (IS).

These expenses are by nature likely to give rise to trade-offs between investments and operating expenses. This mechanism therefore encourages operators to optimise all expenses overall. It consists of defining, for the tariff period, a trajectory for the evolution of the capital costs estimated for this type of investment, which would then be excluded from the CRCP scope. The gains or losses made are, therefore, 100% retained by operators during the tariff period for both operating and investment costs. At the end of the tariff period, the effective value of assets will be taken into account in RAB, which, for the following tariff periods, allows the sharing of gains or extra costs with users.

CRE presented its proposal to extend this system to the regulated LNG terminals in its public consultation on 30 July 2020. The majority of the contributors expressed their commitment in favour of this extension.

CRE introduces into the ATTM6 tariff an incentive mechanism to control investments outside infrastructure similar to that of the transmission tariff. Given the specificity of real estate on LNG terminal sites and the impossibility of arbitration between rental and construction on an industrial site, the incentive scope will be limited to vehicles and IS.

This mechanism provides that at the end of the tariff period, CRE will conduct an analysis of the commissioning trajectories of the investments concerned in order to ensure that any gains made during the tariff period are not offset by a higher outlay in subsequent tariff periods, for example due to delays in some projects.

The estimated amount of investments subject to this incentive regulation is €3 million per year on average.

3.4 Incentive regulation for quality of service

In the ATTM5 tariff, there is no provision for the quality of service regulation mechanism of LNG terminal operators.

The incentive regulation of the quality of service of operators which is for the purpose of improving the quality of service provided to infrastructure users in the fields considered particularly important for the proper functionning of the gas market.

CRE has thus proposed introducing indicators relating to maintenance programmes, on the one hand, and the environment on the other.

In their responses, market players generally supported the introduction of incentive regulatory indicators. In particular, one shipper stated that being very interested in the maintenance indicators, the maintenance operations should penalise users of the terminals as little as possible.

Another shipper wonders about the effectiveness of the system since the indicators are not financially prompted.

CRE decides to extend the quality of service regulation mechanism to LNG terminal operators, in accordance with terms similar to those applied to other infrastructure operators, in particular, the calculation and frequency of publication of the indicators and the associated objectives.

The new indicators introduced in the ATTM6 tariff are not financially prompted from the start of the tariff period, but may be introduced as part of the biannual tariff update.

In addition, the results of these indicators will be made available on the operators' websites for terminal users, accompanied by a qualitative analysis report on their annual performance.

3.4.1 Indicators for regulated LNG terminal maintenance programmes

In order, on the one hand, to give more visibility to users of LNG terminals and, on the other hand, to reduce the unavailability of terminals, in particular those that could have been avoided through better coordination of maintenance with those of the transmission network, the ATTM6 tariff sets five indicators relating to maintenance programmes:

- the annual rate of reduction of the unloading capacity subscribed calculated as the ratio between the firm unloading capacity made available and the contracted unloading capacity. This indicator will be calculated annually, for each terminal;
- the annual rate of reduction of the storage capacity calculated as the ratio between the firm storage capacity made available and the technical storage capacity. This indicator will be calculated annually, for each terminal;
- the daily regasification capacity reduction rate calculated as the ratio between the available daily regasification capacity and the technical regasification capacity. This indicator will be calculated daily, for each terminal;
- an indicator of compliance with the annual maintenance programmes of LNG terminal operators, calculated according to the variation (as a percentage) in the capacity provided between the published provisional maintenance programme and the maintenance programme carried out. The monitoring of this indicator will be calculated annually, for each terminal;
- an indicator for monitoring the provision of information in the event of technical incidents that may lead to a restriction of the capacity of users of the LNG terminals, and, in particular, the deadline for providing information in number of hours. This indicator will be provided annually, for each terminal;

3.4.2 Environmental indicators

During the various public consultations conducted within the framework of network tariffs, market participants shared CRE's position to strengthen the environmental indicators.

Consequently, CRE introduces the following indicators into the ATTM6 tariff:

- monthly emissions of greenhouse gas related to the volume of gas unloaded.
- methane leaks (including diffuse leakages, venting and accidents/incidents) related to the volume of gas unloaded.

3.5 Incentive regulation for research, development and innovation (R&D&I)

In a rapidly changing energy landscape, CRE attaches particular importance to the development of smart networks and the adaptation of networks to the energy transition. LNG terminal operators must have the necessary resources to successfully carry out their research and development (R&D) and innovation projects, which are essential for providing an efficient and high-quality service to users and developing their operating tools for their networks. LNG terminal operators must have a transparent and effective use of these resources.

In its public consultations on 14 February 2019 and 30 July 2020, CRE proposed to maintain the incentive to effectively incur R&D&I expenses and to strengthen transparency on the projects and associated expenses, with the possibility of a mid-period review of the trajectory. The majority of the stakeholders who responded to the public consultations expressed a favourable opinion on CRE's proposals.

For the ATTM6 tariff period, CRE implements an incentive regulation based on the following principles:

- the incentive mechanism to control the costs of operators' R&D&I expenses is maintained, with the possibility to revise this tariff trajectory in order to provide more flexibility in adapting their programme. At the end of the ATTM6 period, the operators will present a financial assessment of the R&D&I to CRE, and the amounts not spent over the period will be returned to consumers (*via* the CRCP), while any exceeding of the trajectory will remain the responsibility of the operator;
- transparency and control of the effectiveness of R&D&I expenditures are strengthened through two exercises, the format of which will be the subject of work between CRE and the operators:
    - annual transmission of technical and financial information to CRE for all ongoing and completed projects, instead of the current report to CRE;
    - bi-annual publication by the operators of a report for the public, in line with the mechanism currently in place. The reports will need to be harmonized between the operators, in particular thanks

to standardised indicators, and enhanced with concrete elements concerning the benefits of projects for network users, as well as systematic feedback on the demonstrator projects financed by the tariff.

3.6 Regulation framework for maintenance of the Montoir terminal

The Montoir-de-Bretagne terminal reaches 40 years of age in 2020. The issue of managing the ageing of terminal assets and their renewal therefore becomes an increasingly important issue, particularly in an increasing business context.

If CRE shares the fact that the terminal is ageing and additional maintenance needs are to be provided, it notes that insofar as the measure where the NOEs are the subject of an incentive trajectory, the non-fulfilment of the initially planned volumes could give rise to illegitimate benefits for Elengy. CRE therefore considers that the increase in the NOEs granted must be accompanied by a regulatory framework protecting users in the event of non-fulfilment of the works and activities envisaged by Elengy.

Consequently, this deliberation introduces a specific regulation framework for the maintenance expenses of the Montoir terminal: Elengy will present, at the end of the tariff period, a review of the maintenance programmes actually carried out and the associated expenses, comparing them with the programme as presented by Elengy in its tariff demand. If applicable, the financial amounts associated with maintenance that has not been implemented will reduce the net operating expenses to be covered by the next tariff, through an amount entered in the balance of the CRCP for the period, to be returned to users.

3.7 Regulatory framework for the Fos Cavaou biopolymer programme

Elengy wishes to replace its anti-fouling programme currently operating with chlorine with a biopolymer programme (biomass polymers), in order to be more environmentally friendly. This programme is more costly than the chlorine programme.

Since the expenses associated with the project are at this stage not incurred and comparable to R&D costs, CRE asks Elengy to present an assessment of this programme. If applicable, the financial amounts associated with a non-fulfilment of the programme will reduce the net operating expenses to be covered by the next tariff, through an amount entered in the balance of the CRCP for the period, to be returned to users.

4. LEVEL OF CHARGES TO BE COVERED AND TRAJECTORY OF CHANGES IN THE USE TARIFF FOR REGULATED LNG TERMINALS

4.1 Tariff application and main issues

Elengy believes that its tariff proposal aims to address several challenges, in particular:

- maintain a strong business model capable of responding to a moving market like LNG and in a competitive environment between LNG terminals;
- adapt the operation of the terminals to the *Trading Region France* (TRF) framework;
- manage uncertainty on very long-term subscriptions and any stranded costs;
- develop retail LNG activities (bunkering in Fos) within an unregulated framework;
- assert the place of LNG terminals in the energy transition.

4.2 Allocation of indirect expenses

Elengy's activity is spread amongst three LNG terminals (Montoir, Fos Cavaou and Fos Tonkin), and within each of these terminals, the activity is split between various regulated activities (unloading, reloading) or unregulated ones (see Part 2).

Thus, certain costs shared, either by the different terminals or by the different activities, are subject to allocation keys, in order to make each site and each activity bears the costs which are attributable to it.

4.2.1 Distribution of regulated indirect charges between LNG terminals

The expenses attributed to the regulated activity of each terminal consist, on the one hand, of direct charges, corresponding to costs borne directly by the site in question, and on the other hand, part of the indirect operating costs: head office rent, computer services, general costs (studies, tertiary services, communication, temporary work, *etc.*), head office staff costs and research and development expenses.

With the restructuring of Fos Tonkin in 2021, the shared expenses of head office are mechanically more allocated to the Montoir and Fos Cavaou sites. As regards indirect operating expenses, the allocation method is based on a pro rata distribution of the maximum technical capacity of each LNG terminal:

	ATTM5	ATTM6
Montoir-de-Bretagne	123 TWh *48 %*	123 TWh *51 %*
Fos Tonkin	35 TWh *14 %*	18 TWh *7 %*
Fos Cavaou	97 TWh *38 %*	100 TWh *41 %*

Regarding indirect capital costs, they consist only of the costs associated with the information systems. These assets are broken down over the entire ATTM6 period within the RAB of each of the three terminals pro rata to the value of their respective RABs as at 31 December 2020.

4.2.2 Allocation of expenses between regulated and unregulated activities

Certain assets of each LNG terminal, such as berths and unloading arms, are used both by regulated and unregulated activities. The same applies to certain operating expenses items, such as staff costs or certain consumables.

The total gross costs of these shared resources are borne by the regulated activity of each terminal. When these assets and operating expenses are also used for unregulated activities, the subsidiary dedicated to non-regulated activities (EHE) pays a unit contribution to the regulated activity.

For each terminal, the unit contribution is calculated from three components:

- a share of the normative capital costs used by the unregulated activity;
- a share of the direct operating costs contributing to the unregulated activity;
- a share of the indirect operating expenses (see previous paragraph) contributing to the unregulated activity.

These quotas are calculated on the basis of allocation keys applied to the assets (part of the berths used for example) and to the operating expenses (number of man-days for example) concerned by the unregulated activity in question.

CRE considers that the allocation keys used by Elengy are appropriate and allow a proportionate allocation of expenses resulting from the pooled use of assets and operating expenses currently covered by regulated tariffs.

4.3 STS dispute handling

Elengy's request

Fos Cavaou terminal was built by the STS group of companies under a turnkey contract concluded on 17 May 2004 for a fixed price, which cannot be revised, including all construction and supply works. The performance of the contract was marked by a series of difficulties: STS having refused to complete part of the works and having delivered an incomplete terminal with a delay of 18 months. Fosmax LNG proceeded in 2010 with a “mise en regie”, a legal term that refers to the action of charging a different contractor to complete the remaining works, while the incurred costs are borne by the initial contractor, in this case STS.

Following an arbitration procedure under the aegis of the International Chamber of Commerce (ICC), in 2015, the Arbitral Tribunal ordered Fosmax LNG to pay part of the net additional construction costs and maintained Fosmax LNG's responsibility for the amount of the works put in place. In November 2016, the Conseil d'Etat (State Council), referred to by Fosmax LNG, confirmed that the net additional construction costs remained at the expense of Fosmax LNG but concluded that it was up to Fosmax LNG to refer again to an arbitral tribunal for the “mise en régie” related costs.

Fosmax LNG had requested from ATTM5 tariff the coverage by the tariff of the net additional construction costs and then at the interim tariff update of ATTM5. CRE concluded that a decision made by CRE as of the update on 1 April 2019 could have consequences on the part of the dispute still under arbitration. Therefore, CRE had decided to examine the consequences of this dispute when it would be definitively closed.

The part of the dispute concerning the “mise en régie” was judged on 24 June 2020. As part of this arbitral decision, STS was ordered to reimburse Fosmax LNG for the majority of the contracting work.

Elengy - now sole shareholder of Fosmax LNG - updated its tariff demand according to the outcome of the last arbitral decision. The operator requests to include in the RAB of Fos Cavaou as of 1 January 2021 the additional

amount of €40.1 million. This amount corresponds to the net construction costs and the financial charges borne by Fosmax LNG in 2015 as result of the first Arbitral Tribunal decision, as well as the capitalized costs associated to those charges resulting from the delay in their integration in the regulated tariff, and lastly the procedural costs borne by Elengy.

Elengy requested the following tariff treatment:

- integration of €40.1 million in Fos Cavaou's RAB as of 1 January 2021;
- depreciation of this amount over the average remaining depreciation period of the initial RAB (23 years which Elengy proposes rounding to 20 years);
- application of remuneration rate associated to these investments, which includes:
    - the ATRT7 WACC rate of remuneration, which is 4.25%;
    - the 200 basis points premium for LNG assets;
    - the 125 points premium applicable to all investments decided after 1 January 2004 and before 31 December 2008.

CRE analysis

CRE considers that the closure of the various parts of the dispute between Fosmax LNG and the contractor STS enables the establishment of the tariff treatment of the expenses associated to the various arbitration decisions in the ATTM6 tariff.

After analysing the construction costs charged to Fosmax LNG as part of the arbitration decisions, CRE notes that these charges correspond to the actual construction costs of Fos Cavaou terminal which, although noted late, they correspond to the expenses of an efficient operator.

Consequently, CRE retains Elengy's request to include in the RAB as at 1 January 2021 the net additional construction costs of €26.8 million. These additional costs will be amortised over 20 years and will be remunerated according to the same principles applied to the initial construction costs of the terminal, namely the remuneration rate used in the ATRT tariff (4.25% actual before tax in the ATRT7 tariff) plus the specific LNG premium of 200 basis points and the 125 basis points premium that was granted in the ATTM tariff for all investments decided between 2004 and 2008.

Furthermore, CRE considers that it is legitimate to cover the financial interest charged to Fosmax LNG by the Arbitral Tribunal, and which correspond to the reimbursement of the financial costs borne by STS between the payment of the charges and their reimbursement by Fosmax LNG. On the other hand, CRE considers that these costs are not intended to be integrated into the terminal's RAB, which would lead to their depreciation and remuneration. CRE therefore integrates the amount of these financial interests, namely €6.1 million, into Fosmax LNG's allowed income and decides to spread their actual coverage over 4 years. In order to ensure the financial neutrality for Elengy of this smoothing between 1 January 2021 and the date of their actual repayment, the amounts not yet reimbursed will be remunerated according to the same terms as the amounts entering the CRCP.

Besides, CRE excludes the coverage of the additional financial expenses of €5.6 million requested by Elengy for the period between the court decisions of 2015 and 2020. These charges would not be covered by the tariff. CRE recalls that it deferred any decision concerning the tariff treatment of these costs borne by Fosmax LNG due to the lack of full judgement of the dispute.

Finally, CRE considers that the procedural costs requested by Elengy correspond to operating expenses over the past years: previous ATTM tariffs have provided for operating expense trajectories that have already covered these expenses. Therefore, CRE does not retain these costs in the charges to be covered by the ATTM6 tariff.

4.4 Operating expenses

4.4.1 Elengy's request

The net operating expenses after the allocation of the head office indirect expenses presented by Elengy in its application for each LNG terminal for the period ATTM6 2021-2024 are as follows:

In current €m	2019 actual	2021	2022	2023	2024
Montoir-de-Bretagne	41.0	48.1	50.5	52.2	53.5
of which energy costs	*3.8*	*4.3*	*5.9*	*6.6*	*6.7*
of which decommissioning provisions	*0.9*	*1.4*	*1.4*	*1.5*	*1.5*
Fos Tonkin	22.8	13.8	14.7	14.8	15.1
of which energy costs	*1.4*	*1.3*	*1.6*	*1.7*	*1.7*
of which decommissioning provisions	*0.8*	-	-	-	-
Fos Cavaou	46.7	49.3	50.8	51.9	53.2
of which energy costs	*3.4*	*4.3*	*5.3*	*5.5*	*5.5*
of which decommissioning provisions	*1.1*	*1.8*	*1.8*	*1.9*	*1.9*

For Montoir, Elengy's request, including energy costs and decommissioning provisions, would lead in 2021 to an increase of + €7.1 million, or +17.2% compared to 2019. Over the period 2021-2024, the net operating expenses then increase by +3.6% per year on average.

For Fos Tonkin, Elengy's request, including energy costs, would lead to a decrease of €9.0 million in 2021, or -39.5% compared to 2019. Over the period 2021-2024, the net operating expenses then increase by +2.8% per year on average.

For Fos Cavaou, Elengy's request, including energy costs and decommissioning provisions, would lead in 2021 to an increase of + €2.6 million, or +5.7% compared to 2019. Over the period 2021-2024, the net operating expenses then increase by +2.6% per year on average.

The main items showing an increase between 2019 and 2021 in the Elengy demand are the following:

- the head office rent and the Montour fee paid to the Port of Nantes Saint-Nazaire;
- maintenance of the Montoir terminal to take into account of the high activity and aging of the site;
- the IT services provided at Elengy head office;
- other consumption and external services of the head office, Montoir and Fos Cavaou, linked in particular to an increase in insurance costs and additional expenditure items (canteen, logistics, overhead costs, *etc.*);
- the staff costs of Montoir and Fos Cavaou, due to a revaluation of the compensation indexation indices on the one hand, and a change in the distribution of the workforce of the Fos terminals as from the restructuring of Fos Tonkin in 2021 on the other hand;
- taxes and duties, particularly on the Montoir site;
- R&D carried out at head office level;
- revenue from extra-tariff ancillary services which are considerably decreasing ;
- electricity and CO_2 expenditure: Elengy anticipates an increase in charges due, on the one hand, to the increase in electricity consumption linked to the demand for LNG (increase compared to 2019 and decrease from 2022) and, on the other hand, the increase in the various components of the electricity price, as well as the need to purchase CO_2 quotas on the Montoir terminal.

4.4.2 Issues identified by CRE

- **Competitiveness of LNG terminals**

Unlike transmission networks, European LNG terminals do not constitute natural monopolies, but are competing against each other. Over the past decade, the commissioning of several major terminals in Europe has reinforced the competition against other European terminals and land-based supply sources.

French regulated LNG terminals must therefore have a constant objective of cost control and optimisation in order to remain competitive.

- **Maintain a maximum level of safety of LNG terminals**

Guaranteeing the safety of people and property is a major issue.

The ATTM6 tariff should provide Elengy with the means to maintain a high level of security on its infrastructure, such as cybersecurity or the consideration of the physical ageing of the infrastructure. It should also enable Elengy to implement the investments that contribute to achieve this objective.

- **Increase in activity and ageing of the Montoir-de-Bretagne terminal**

The activity of the Montoir-de-Bretagne terminal has increased sharply since October 2018 with the return of LNG to Europe. The success of the call to the market for the sale of available capacities over the period 2021-2035 is reflected in an increase in subscriptions over the period 2021-2024 with an average of 120 TWh/year to be compared with 103 TWh in 2019.

In addition, the Montoir terminal celebrated its fortieth anniversary in 2020, corresponding to the end of the economic life of the assets commissioned in 1980.

This context will generate additional maintenance needs. Changes in terminal costs must reflect this situation.

- **Fos Tonkin restructuring**

The capacity of the Fos Tonkin terminal will be halved from 1 January 2021, with 18 TWh/year compared with 35 TWh/year previously. This restructuring is accompanied by a decrease in net operating expenses. With regard to terminal personnel, part of the workforce will be transferred to the nearby Fos Cavaou terminal.

Cost changes must reflect the evolution of the Fos Tonkin terminal business without undue burdening on the costs of the nearby Fos Cavaou terminal.

- **Innovation for the LNG terminal operator's business**

Innovation and the new possibilities offered by the digital revolution are a lever to optimise the costs associated with the transformations induced by the energy transition. LNG terminal operators must favour the use of such innovative solutions if they help reduce the total costs for the community and/or the risks of over-investment, not to mention stranded costs.

CRE intends to ensure that LNG terminal operators have the necessary resources to successfully carry out these innovation projects, which are essential for providing an efficient and high-quality service to modernising users, and in particular to upgrade their operating tools. Operators must in return use these resources effectively and in a transparent manner.

4.4.3 Analysis approach adopted

Incentive regulation for net operating expenses aims at encouraging operators to improve efficiency over the regulatory period while leaving to them 100% of the differences between the actual trajectory and the tariff trajectory. The efficiency level revealed during the ATTM5 tariff period must be taken into account to establish the ATTM6 tariff so that LNG terminal users benefit from productivity gains over time.

For these reasons, CRE asked Elengy to present its tariff proposal with regard to the latest achieved results, justifying any significant deviation from the 2019 achieved results.

CRE has appointed the consultancy firm Orcom H3P to carry out an audit of the operating charges of natural gas LNG terminals. The works took place between April and July 2020.

This audit enables CRE to have a good understanding of the LNG terminals' actual operating expenses and revenues observed during the ATTM5 period and the forecast net operating expenses presented by Elengy for the coming tariff period (period 2021-2024). The results of this audit have the following objectives:

- providing expertise on the relevance and justification of LNG terminals' operating expenses trajectories for the next tariff period;
- assessing the level of actual costs (2019) and estimated costs (2021-2024);
- formulating recommendations on the efficient level of operating expenses to be taken into account for the ATTM6 tariff.

CRE has also analysed certain specific items, in particular Research and Development (R&D) expenses, energy costs and extra-tariff revenue.

The preliminary conclusions of the audit report gave rise to a contradictory exchange with Elengy in advance of its publication as part of the public consultation launched by CRE in July 2020. The operator was thus able to comment on the results of the auditor's work.

In its public consultation, CRE considered the OPEX the request by Elengy as "high range", and the trajectory recommended by the consultant as "low range" to which CRE had added its own preliminary analysis of R&D, energy costs and extra-tariff revenue.

Following the public consultation, discussions continued between Elengy and CRE on a certain number of net operating expenses items. The level of operating expenses retained by CRE is the result of the discussions with Elengy coupled with the regulator's own analyses.

4.4.4 CRE analysis

The analyses by the auditor and CRE focused on the initial tariff demand sent by Elengy.

However, in line with what it had mentionned in the public consultation, CRE adjusted the inflation assumption for the years of 2020 and 2021 based on the draft Finance Bill (PLF) for 2021, and based on IMF forecasts for 2022 and 2024. All the trajectories presented below takes into account this new inflation trajectory.

	2020	2021	2022	2023	2024
Forecast inflation used in the PC	0.4 %	1.40 %	1.60 %	1.70 %	1.70 %
Forecast inflation used in the deliberation	0.2 %	0.6 %	1.0 %	1.2 %	1.5 %

4.4.4.1 Results of the external audit and additional adjustments by CRE

At the end of CRE preliminary work and that of the auditor, the regulator presented the following ranges of trajectories for operating costs in the public consultation (including energy costs and provisions for dismantling) of the LNG terminals over the ATTM6 period (readjusted ranges of the new inflation trajectory):

Montoir-de-Bretagne, in €m	2021	2022	2023	2024
High PC range (Trajectory requested by Elengy)	47.5	49.8	51.3	52.5
Adjustments to Elengy's request	*-4.3*	*-5.6*	*-6.7*	*-7.1*
Low range	**43.2**	**44.2**	**44.6**	**45.3**

Fos Tonkin, in €m	2021	2022	2023	2024
High PC range (Trajectory requested by Elengy)	13.7	14.5	14.5	14.7
Adjustments to Elengy's request	*-0.1*	*-0.4*	*-0.7*	*-0.7*
Low range	**13.6**	**14.1**	**13.8**	**14.1**

Fos Cavaou, in €m	2021	2022	2023	2024
High PC range (Trajectory requested by Elengy)	49.0	50.4	51.3	52.5
Adjustments to Elengy's request	*-3.1*	*-3.8*	*-4.8*	*-4.7*
Low range in the PC	**45.9**	**46.6**	**46.5**	**47.7**

The main differences between the low range and Elengy's request concerned external consumption by the head office and Montoir-de-Bretagne, staff costs and taxes. CRE, following the work carried out since the public consultation of July 30, 2020, has made a number of adjustments to its trajectory. Contributors to the public consultation mostly shared the issues identified in section 4.4.2. Some of them pointed out the need for vigilance regarding the restructuring of Fos Tonkin and any load transfers between LNG terminals. The main adjustments CRE retains in relation to Elengy's request are presented below.

- **Decrease in production taxes**

Since the public consultation, the draft Finance Bill 2021 (PLF 2021) has been published. It intends to reduce, on a lasting basis, the production taxes, in particular on the local economic contribution (CET) and land taxes. CRE has taken into account the associated cost decreases for Elengy.

Montoir-de-Bretagne, in €m	2021	2022	2023	2024
Low range	43.2	44.2	44.6	45.3
Additional adjustments following the draft FB 2021	*-1.9*	*-2.0*	*-1.8*	*-1.8*
Readjusted low range	41.4	42.2	42.8	43.5

Fos Tonkin, in €m	2021	2022	2023	2024
Low range	13.6	14.1	13.8	14.1
Additional adjustments following the draft FB 2021	*-1.1*	*-1.0*	*-0.9*	*-1.0*
Readjusted low range	12.5	13.0	12.8	13.1

Fos Cavaou, in €m	2021	2022	2023	2024
Low range in the PC	45.9	46.6	46.5	47.7
Additional adjustments following the draft FB 2021	*-5.0*	*-5.1*	*-5.1*	*-5.2*
Readjusted low range	40.9	41.5	41.4	42.6

- **External consumption**

External consumption includes consumables, rents and fees, maintenance, IT services and other external consumption and services (overhead costs, insurance, tertiary services, *etc.*).

The auditor recommends an adjustment of -€0.9 million/year on head office expenses, which is -7.3% compared to Elengy's request. In particular, the consultant considers that the rental costs of the head office estimated by Elengy, are higher than the historical costs, and do not correspond to the contractual terms provided for. An increase in a number of other sub-posts (including overhead costs, crèche costs, external studies and consulting fees, temporary work, etc.) is noticed in the trajectory of Elengy, yet the latter did not provide justifications to support these changes. As result, the consultant recommends to base the tariff trajectory on the 2019 achieved level to which he applies inflation.

In addition, the consultant recommends an adjustment of €1.3 million/year on the specific charges of the Montoir-de-Bretagne terminal, corresponding to:

- port fees, the consultant considers that Elengy underestimates the port activity in relation to historical observations (adjustment of -€0.5 million/year);
- other external consumption and services (logistic costs, social benefits): Elengy did not provide the evidence justifying the increases compared to what was achieved (i.e. an adjustment of -€0.2 million/year);
- maintenance expenses: Elengy presents a significant increase, without any justification, which leads the consultant to retain the last level realised and inflate it (i.e. an adjustment of €0.6 million/year).

The auditor also recommends an adjustment of -€0.4 million/year on Fos Cavaou, mainly on other external consumption and services (retirement of the increase in training costs and consumables).

CRE analysis

CRE partially adopts the adjustment proposed by the auditor.

Elengy justified part of the sub-item associated with the general head office expenses (crèche costs, external studies and consultancy costs, temporary work, *etc.*). CRE therefore retains an adjustment of -€0.4 million/year, corresponding to the part with an increase in costs that the operator does not justify.

Concerning the specific charges of the Montoir-de-Bretagne terminal (port fees, other consumptions and external services), CRE shares the consultant's analysis with regard to port fees and external consumption, and retains the adjustments proposed by the consultant.

With regard to the maintenance of the Montoir terminal, Elengy provided details of preventive maintenance operations of the old assets as well as new ones. The costs associated with the increase in the volumes of preventive maintenance are therefore retained by CRE (corresponding to €0.2 million/year). However, Elengy did not justify the increase in curative maintenance. Consequently, CRE retains part of the adjustment proposed by the consultant related to maintenance (i.e. -€0,4 million/year).

The maintenance trajectory retained by CRE shows a significant increase compared to the levels achieved during ATTM5 (+ 23%). CRE considers that this increase is justified by the ageing of Montoir terminal. However, in order to ensure that the maintenance programmes associated with this tariff trajectory are well implemented, Elengy will present, at the end of the tariff period, a review of the maintenance programmes actually carried out and the associated expenses, to be compared them with the programme as presented by Elengy in its tariff demand. When necessary, the financial amounts associated with maintenance that has not been implemented will reduce the net operating expenses to be covered by the next tariff.

Finally, in the case of Cavaou, Elengy justified part of the expenses related to the increase in its consumables requirements, particularly related to the biopolymer programme which aims to replace chlorine cleaning with biomass polymers, the cost of which is higher than chlorine. CRE retains the associated expenses, but at this stage these expenses are still uncommitted and comparable to R&D costs; CRE asks Elengy to present assessment report of this programme. When necessary, the financial amounts associated with the non-implementation of the programme will reduce the net operating expenses for the next tariff. The remaining Cavaou expenses which are subject to the consultant’s adjustments were not justified by Elengy, hence CRE shall retains an adjustment of -€0.2 million/year.

- **Personnel expenses**

In order to take into account the restructuring of Fos Tonkin in 2021, Elengy plans to transfer dedicated staff from Fos Tonkin to Fos Cavaou and to increase the share of joint workforce allocated to Fos Cavaou. The auditor notes that the workforce of the Fos Cavaou terminal over the period 2021-2024 will be significantly higher than those existing in 2019, while the terminal's activity remains constant.

The auditor recommends, at the end of the ATTM6 tariff, to go back to the same level of dedicated workforce of Fos Cavaou in 2019 by taking advantage of natural departures during the tariff period.

Furthermore, the auditor considers that the indexing assumptions used by Elengy for the calculation of personnel expenses are not consistent with the sectoral data.

Consequently, the auditor recommends an adjustment of -€0.2 million/year to the head office, -€0.7 million/year to Montoir, -€0.5 million/year to Fos Tonkin and €1.1 million/year to Fos Cavaou, which is -5.8% compared to Elengy's overall request for its personnel expenses.

CRE analysis

Concerning the distribution of Fos staff, CRE considers, on the one hand, that the auditor's approach does not take into account the fact that the reduction in activity may require an adaptation period, particularly in the context of the emergence of new activities in the terminals. As such, it adopts the overall workforce trajectory requested by Elengy on the two Fos terminals. On the other hand, CRE considers that Elengy's request will cause Fos Cavaou to bear all the additional costs linked to the decline in Fos Tonkin ‘s activity. Consequently, CRE retains a more balanced distribution of between Tonkin and Cavaou.

Furthermore, CRE considers that the assumptions for indexing the payroll (SNB and GVT) requested by Elengy are justified and consistent with both the history and other regulated operators.

Consequently, CRE retains the overall trajectory requested by Elengy with regard to personnel expenses. However, it retains an adjustment of +€0.8 million/year to Fos Tonkin and -€0.8 million/year to Fos Cavaou.

- **Taxes and duties**

The auditor considers that certain allocation keys and calculation methods used by Elengy to allocate the CET per LNG terminal are irrelevant. Moreover, it considers that certain increases in taxes have not been justified or have been counted twice: hence, the auditor recommends to base the tariff trajectory on 2019 achieved level to which its applies inflation and to withdraw the double-accounted taxes.

The auditor therefore recommends an adjustment of €1.3 million/year to Montoir, +€0.6 million/year to Fos Tonkin and -€0.6 million/year to Fos Cavaou.

CRE analysis

CRE shares the auditor's analysis of the allocation of the local economic contribution between terminals. However, it slightly adjusted the allocation used by the consultant in order to correct a calculation bias.

Moreover, since the public consultation in July 2020, the draft FB for 2021 published on 28 September 2020[4], introduced a reduction in production taxes:

- a reduction in the CET ceiling from 3% to 2% of added value;
- a half reduction in the land tax on industrial sites.

CRE has incorporated the consequences of these legislative provisions into Elengy's tax trajectory.

Overall, with regard to taxes and duties, CRE retains an adjustment of -€0.4 million/year for Fos Tonkin, -€3.0 million€/year for Montoir-de-Bretagne and -€5.7 million/year for Fos Cavaou.

- **Research and development (R&D)**

For the period ATTM6, Elengy requests a budget of net operating expenses of €1.3 million/year, with a sharp increase in 2023 and 2024 (+123% compared to the average requested in 2021-2022), divided into two purposes:

- improve the operation of terminals through a set of technical actions relating in particular to the control of industrial safety risks, process performance, as well as gas quality, smell and metering;
- fix the operation of LNG terminals in the energy transition.

CRE considers that the current level of Elengy's R&D expenditure is justified and consistent with its activities, both in terms of costs and scope. However, the additional expenses proposed by Elengy from 2023 are not associated with a sufficiently specific programme to be retained.

Consequently, CRE does not retain these additional expenses in the trajectory, and retains a trajectory based on the actual inflated 2019 expenses, i.e. an amount of €3.3 million over the period. For the 2023 and 2024 years, the trajectory may be revised during the mid-period tariff update.

- **Extra-tariff revenue**

Extra-tariff revenue refers to the ancillary services performed by Elengy such as cooling, ship approvals or tank inerting. They are deducted from the operating expenses.

CRE considers that Elengy's assumption not to envisage any revenue over the ATTM6 period at the head office and at the Montoir terminal is not consistent with the past observation: in previous years, Elengy carried out and invoiced operations, adapting its services to the needs of the market. On the other hand, Elengy justified the disappearance of the extra-tariff revenue at the Fos Cavaou site, which is the only historical service linked to the former joint shareholder of the terminal.

Consequently, CRE retains an extra-tariff revenue level based on the historical average of the revenue of the head office and Montoir, i.e respective adjustments of €0.5 million/year and -€0.8 million/year.

- **Capitalised production of Fos Cavaou**

Since the end of the audit, Elengy indicated that its initial request for capitalized production (which comes as a deduction from expenses) for the Fos Cavaou terminal was overvalued and has therefore requested a less ambitious trajectory.

CRE analysis

Elengy's revised trajectory is more consistent with Elengy's investment chronicle than the initial request. CRE retains an adjustment of +€1.6 million/year at the Fos Cavaou terminal compared to Elengy's initial request.

- **Electricity and CO_2 costs**

Elengy's request for electricity and CO_2 is based, on the one hand, on the assumption that electricity consumption is increasing due to the increase in LNG terminals' activity, and on the other hand, on the increase in the various price components.

[4] Draft FB 2021

Montoir-de-Bretagne	2019 actual	2021	2022	2023	2024
Electricity (€m) *Electricity volume (GWh)*	3.8 *[confidential]*	4.2 *[confiden-tial]*	4.8 *[confiden-tial]*	5.4 *[confiden-tial]*	5.5 *[confiden-tial]*
CO_2 (€m)	-	0.1	1.1	1.2	1.3
Total energy costs (€m)	**3.8**	**4.3**	**5.9**	**6.6**	**6.7**

Fos Tonkin	2019 actual	2021	2022	2023	2024
Electricity (€m) *Electricity volume (GWh)*	1.4 *[confidential]*	1.3 *[confiden-tial]*	1.4 *[confiden-tial]*	1.7 *[confiden-tial]*	1.7 *[confiden-tial]*
CO_2 (€m)	-	-	-	-	-
Total energy costs (€m)	**1.4**	**1.3**	**1.4**	**1.7**	**1.7**

Fos Cavaou	2019 actual	2021	2022	2023	2024
Electricity (€m) *Electricity volume (GWh)*	3.4 *[confidential]*	4.3 *[confiden-tial]*	5.3 *[confiden-tial]*	5.5 *[confiden-tial]*	5.5 *[confiden-tial]*
CO_2 (€m)	-	-	-	-	-
Total energy costs (€m)	**3.4**	**4.3**	**5.3**	**5.5**	**5.5**

CRE analysis

CRE intends to make several adjustments in relation to this request:

- to electricity volumes:
  - electricity consumption volumes are reduced in order to take into account the gas emission assumptions per terminal, which are more consistent with the forecasted LNG demand in France;
  - a downward adjustment to the volume of electricity consumed at Fos Cavaou, in order to take into account the energy savings associated with development investment projects that are included in Elengy's request but are not reflected in its consumption forecasts;
- to the price of electricity:
  - the price displayed by Elengy for the years 2022 to 2024 is not justified and is high in light of the prices observed on the electricity markets for future years. CRE proposes adopting the average of the 2022 and 2023 calendar prices;
  - with regard ti capacity, CRE uses the average auction prices for 2021 and 2022 (extended to 2023 and 2024);
- on CO_2 quotas:
  - the volumes of CO_2 quotas shall be reduced in order to take into account the use of less polluting facilities and gas emissions on the network being lower than expected by Elengy;
  - taking into account of prices observed on CO_2 markets for the years 2021 to 2024 (average of the calendar prices observed in the last rolling year).

Consequently, CRE retains the following adjustments: -€0.7 million/year at Montoir, -€0.1 million/year at Fos Tonkin and - €0.4 million/year at Fos Cavaou. The retained energy load trajectories are presented in the following tables:

Montoir-de-Bretagne	2019 actual	2021	2022	2023	2024

Electricity (€m) *Electricity volume (GWh)* *Price component (€/MWh)*	3.8 *[confidential]*	4.3 *[confiden-tial]*	4.6 *[confiden-tial]*	4.7 *[confiden-tial]*	4.5 *[confiden-tial]*
CO_2 (€m)	-	0.1	0.9	0.8	0.8
Total energy costs (€m)	**3.8**	**4.4**	**5.5**	**5.5**	**5.4**

Fos Tonkin	2019 actual	2021	2022	2023	2024
Electricity (€m) *Electricity volume (GWh)* *Price component (€/MWh)*	1.4 *[confidential]*	1.3 *[confiden-tial]*	1.5 *[confiden-tial]*	1.6 *[confiden-tial]*	1.6 *[confiden-tial]*
CO_2 (€m)	-	-	-	-	-
Total energy costs (€m)	**1.4**	**1.3**	**1.5**	**1.6**	**1.6**

Fos Cavaou	2019 actual	2021	2022	2023	2024
Electricity (€m) *Electricity volume (GWh)* *Price component (€/MWh)*	3.4 *[confidential]*	3.8 *[confiden-tial]*	4.6 *[confiden-tial]*	5.4 *[confiden-tial]*	5.0 *[confiden-tial]*
CO_2 (€m)	-	-	-	-	-
Total energy costs (€m)	**3.4**	**3.8**	**4.6**	**5.4**	**5.0**

4.4.4.2 Summary of CRE's analysis

To summarise, the following tables present the trajectories of the net operating expenses, resulting from the adjustments made by CRE for the ATTM6 tariff:

Montoir-de-Bretagne, in €m	Actual 2019	2021	2022	2023	2024
Elengy's request		47.5	49.8	51.3	52.5
Adjustment adopted by CRE		-3.9	-5.0	-6.1	-6.6
Trajectory adopted by CRE	**40.2**[5]	**43.6**	**44.8**	**45.2**	**45.9**

Fos Tonkin, in €m	Actual 2019	2021	2022	2023	2024
Elengy's request		13.7	14.5	14.5	14.7
Adjustment adopted by CRE		+0.3	-	-	-
Trajectory adopted by CRE	**20.0**	**13.9**	**14.5**	**14.5**	**14.7**

[5] In order to allow consistent comparisons, the amounts made in the following tables and graphs include the various effects mentioned above: breakdown of staff costs, taxes and duties, taking into account the effects of the draft FB 2021, *etc.*

Fos Cavaou, in €m	Actual 2019	2021	2022	2023	2024
Elengy's request		49.0	50.4	51.3	52.5
Adjustment adopted by CRE		-4.7	-5.8	-6.3	-7.2
Trajectory adopted by CRE	**41.5**	**44.3**	**44.6**	**45.0**	**45.3**

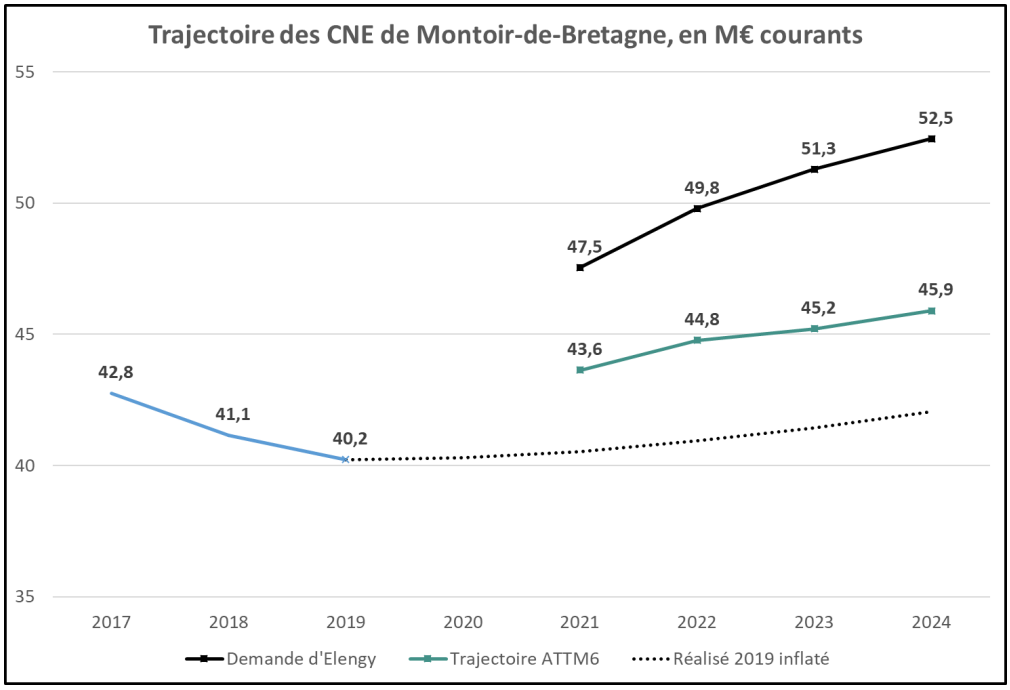
The trajectory used by CRE gives Elengy the means to:

- implement the preventive maintenance programme on its tariff request, which has increased compared to the previous period due to the ageing of the Montoir terminal;
- implement its IT modernisation programme in order to meet its business obligations and meet cyber security requirements;
- maintain the overall workforce at the two Fos terminals as a result of the resizing of Fos Tonkin's activity;
- conduct a salary development policy in line with history;
- train newly recruited staff to replace some of those retiring;
- carry out R&D work in the context of the energy transition;
- take into account the adopted drop in production taxes.

Thus, the trajectories set by CRE envisage:

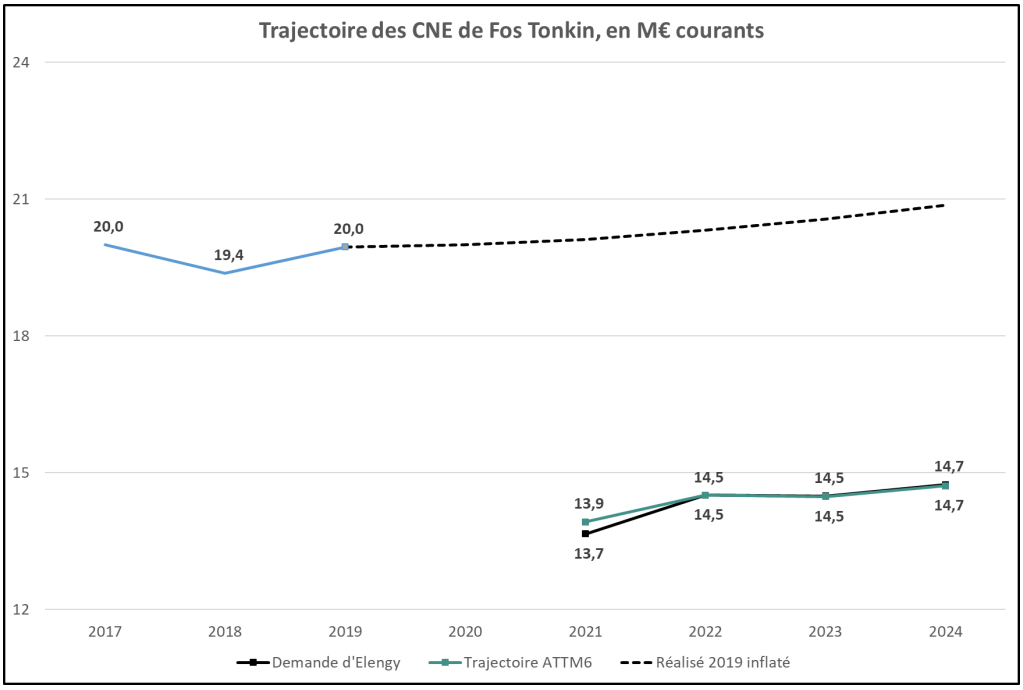
- for Montoir-de-Bretagne: an increase of +8.5% in net operating expenses between the annual average of the 2017-2019 realized and the annual average of the ATTM6 period. Net operating expenses are expected to gow by +1.7% per year on average over the ATTM6 period;
- for Fos Tonkin: a decrease of -30.4% in net operating expenses between the annual average of the in 2017-2019 realised and the annual average of the ATTM6 period. Net operating expenses are expected to grow by +1.9 % per year on average over the ATTM6 period;
- for Fos Cavaou: an increase of +6.8% in net operating expenses between the annual average of the in 2017-2019 realised and the annual average of the ATTM6 period. Net operating expenses are expected to grow by +0.7 % per year on average over the ATTM6 period.

Trajectory of Montoir-de-Bretagne NOEs, in current €m



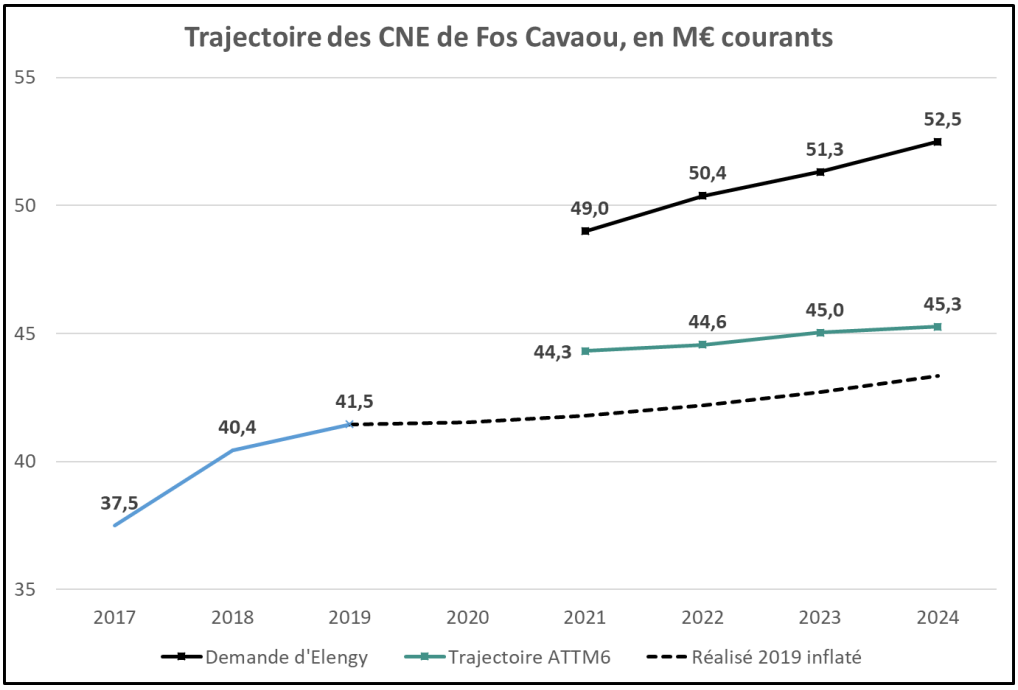
Forecast inflation: +0.2 % in 2020; +0.6 % in 2021; +1.0 % in 2022; +1.2 % in 2023; +1.5 % in 2024

Trajectory of Fos Tonkin NOEs, in current €m



Forecast inflation: +0.2 % in 2020; +0.6 % in 2021; +1.0 % in 2022; +1.2 % in 2023; +1.5 % in 2024

Trajectory of Fos Cavaou NOEs, in current €m



Forecast inflation: +0.2 % in 2020; +0.6 % in 2021; +1.0 % in 2022; +1.2 % in 2023; +1.5 % in 2024

4.5 Weighted average cost of capital

4.5.1 Elengy's request

Elengy's request has been established using a weighted average cost of capital (WACC) identical to that of the current ATRT7 tariff, i.e. 4.25 % (actual, before taxes). Elengy further requests that the specific increase of this rate by 200 basis points be maintained.

Furthermore, Elengy requests to maintain the specific premium previously decided by CRE, in relation with the investments commissioned between 2004 and 2008 and any investments decided between 1 January 2004 and before 31 December 2008 (remuneration premium of 125 basis points).

Regarding the remuneration of assets under construction (AuC), Elengy requests to maintain the remuneration on nominal basis which derived from cost of debt before tax (2.6%) plus the specific LNG premium, i.e remuneration of 4.6%.

4.5.2 Rate of remuneration selected

For the ATTM6 tariff, CRE defines the rate of remuneration of the RAB as the weighted average cost of capital (WACC) defined for the gas transport activity in the ATRT7 tariff, which is 4.25% real before tax, plus the specific remuneration premium (see paragraph 3.1.3.1 of this deliberation).

With regard to the level of the specific remuneration premium, as set out in paragraph 3.1.3.4 of this deliberation, CRE shall maintain the premium level at 200 basis points, with the exception of assets put in service from 1 January 2021 at the Montoir terminal. From now on in this terminal, the depreciation period of the new assets would not exceed 20 years. Given the resulting reduction in the risk of stranded costs, the specific bonus applicable to all of these new assets commissioned is set at 150 basis points.

Assets under construction (AuC) are remunerated at the cost of nominal debt before tax (2.6%) plus the specific LNG activity premium, which is 4.6% in the ATTM6 tariff framework.

4.6 Investments, RAB and normative capital costs

The calculation of the RAB and the capital charges takes into account the investment forecasts provided by Elengy to establish the projected trajectory of ATTM6 tariff.

4.6.1 Elengy's "non-infrastructure" capital charges trajectory

Investment expenses that are subject to an incentive regulation, i.e. expenses associated with the information system are fully borne by the head office. Furthermore, they represent the sole investments associated to the head office.

The following table details the trajectory of RAB, AuC and NCC for Elengy's non-infrastructure assets from 2020 to 2024, which are subject to specific regulation as defined in paragraph 3.3.2.3:

Head office in current €m	2021	2022	2023	2024	Average 21 - 24
RAB at 01/01/N	**6.0**	**6.2**	**9.0**	**8.2**	**7.4**
Commissioning*	2.0	5.0	2.0	2.0	2.8
Depreciation	-1.8	-2.3	-3.0	-3.0	-2.5
RAB at 31/12/N	6.2	8.9	8.1	7.2	7.6
Revaluation	0.1	0.1	0.1	0.1	0.1
Assets under construction (AuC)	3.5	3.5	2.0	2.0	2.8

** Investment entered in the regulated asset base (RAB)*

Moreover, since capital charges attributable to the head office are indirect charges, they are allocated to the three terminals pro rata to the RAB of each terminal as at 31 December 2020 (see section 4.2.1).

4.6.2 Montoir-de-Bretagne

4.6.2.1 Trajectory of investment expenditure

The trajectory of the investment expenditure of Montoir over the ATTM6 period is marked by a significant increase, with an average expenditure of €22.5 million per year over this period, while the average expenditure was approximately €11.4 million per year during the ATTM5 period. This increase is mainly due to renovation investments, in fact the terminal celebrating its 40 years of operations in 2020 and is particularly sollicited in the current market context.

In particular, Elengy envisages:

- refurbishment of the berths;
- the addition of a compressor;
- the implementation of a new command control;
- renovation of electrical installations (extractors, electrical panels, batteries, *etc.*);
- the compliance of the regasifiers;
- the compliance of the buildings.

In accordance with the incentive regulation mechanism applicable to investments of a budget greater than €10 million as introduced by CRE in this deliberation in paragraph 3.3.2.1, certain projects may be subject to an audit to define a target budget. This is the case, in particular, of the wharf renovation projects, the electricity and instrumentation renovation programme and regasifiers replacement, for which Elengy anticipates a budget greater than €10 million. This list is not exhaustive, as new projects may be incepted during the period covered by the ATTM6 tariff.

CRE constructs the forecast capital charges trajectory for the ATTM6 tariff for Montoir, based on the investment expenditure trajectory requested by Elengy for this tariff period:

In current €m	2021	2022	2023	2024	Annual average ATTM6	Annual average ATTM5*
TOTAL	26.4	18.5	20.3	24.8	22.5	11.4

**average of investment expenditures made 2017-2019 and estimated 2020*

4.6.2.2 Trajectory of capital expenses

The table below shows the forecast trajectory of the RAB and assets under construction (AuC) of Montoir from 2021 to 2024 adopted by CRE:

Montoir, in current €m	2021	2022	2023	2024	Average 21 - 24
RAB at 01/01/N	**225.8**	**229.0**	**246.2**	**248.5**	**237.3**
Commissioning*	21.2	31.1	15.6	19.2	21.8
Depreciation	-20.3	-16.8	-16.9	-16.9	-17.7
RAB at 31/12/N	226.7	243.2	244.8	250.8	241.4
Revaluation	2.3	2.9	3.7	3.8	3.2
Assets under construction (AuC)	22.2	10.8	15.7	21.8	17.6

**Investment entered in the regulated asset base (RAB)*

The table below details the forecast trajectory of the normative capital charges (NCC) of Montoir from 2021 to 2024 adopted by CRE:

Montoir, in current €m	2021	2022	2023	2024	Average 21 - 24
RAB at 01/01/N	225.8	229.0	246.2	248.5	237.3
Return on the RAB	16.1	16.5	16.9	17.0	16.6
Depreciation of the RAB	20.3	16.8	16.9	16.9	17.7
Return on fixed assets under construction	0.9	0.7	0.6	0.8	0.8
Normative capital charges	**37.2**	**34.1**	**34.4**	**34.8**	**35.1**

** Affected share of the Common Function (Head Office) ATTM6 - 26.1%*

CRE recalls that the differences between forecast and realised capital costs are 100% covered by the CRCP.

4.6.3 Fos Tonkin

4.6.3.1 Trajectory of investment expenditure

The trajectory of Fos Tonkin's investment expenditure over the ATTM6 period amounts to €4.0 million per year on average over this period. A large stake of these investments will take place in 2021 alone and is associated with the restructuring of the Fos Tonkin site.

In particular, Elengy provides for the sustainability of ship acceptance assets (unloading arms, berth quays, *etc.*), renovation of storage and renovation of low pressure pumps.

The investment expenses associated with Fos Tonkin correspond to the amounts forecasted at the time of the call to the market initiated in February 2019 to extend the activity beyond 2020.

CRE constructs the forecast capital charges trajectory for the ATTM6 tariff for Fos Tonkin, based on the investment expenditure trajectory requested by Elengy for this tariff period:

In current €m	2021	2022	2023	2024	Annual average ATTM6	Annual average ATTM5*
TOTAL	10.6	1.4	2.5	1.5	4.0	2.3

**average of investment expenditures made 2017-2019 and estimated 2020*

4.6.3.2 Trajectory of capital expenses

The table below shows the forecast trajectory of the RAB and assets under construction (AuC) of Fos Tonkin from 2021 to 2024 adopted by CRE:

Fos Tonkin, in current €m	2021	2022	2023	2024	Average 21 - 24
RAB at 01/01/N	**3.5**	**13.6**	**13.0**	**13.1**	**10.8**
Commissioning*	11.2	1.5	2.5	1.5	4.2
Depreciation	-1.3	-2.2	-2.6	-3.1	-2.3
RAB at 31/12/N	13.5	12.8	12.9	11.5	12.7
Revaluation	0.1	0.2	0.2	0.2	0.2
Assets under construction (AuC)	0.0	0.0	0.0	0.0	0.0

**Investment entered in the regulated asset base (RAB)*

The table below details the forecast trajectory of the normative capital charges (NCC) of Fos Tonkin from 2021 to 2024 adopted by CRE:

Fos Tonkin, in current €m	2021	2022	2023	2024	Average 21 - 24
RAB at 01/01/N	3.5	13.6	13.0	13.1	10.8
Return on the RAB	0.6	0.9	0.9	0.9	0.8
Depreciation of the RAB	1.3	2.2	2.6	3.1	2.3
Return on fixed assets under construction	0.0	0.0	0.0	0.0	0.0
Normative capital charges	**1.9**	**3.1**	**3.5**	**4.0**	**3.1**

** Affected share of the Common Function (Head Office): ATTM6 - 1.4%*

CRE recalls that the differences between forecast and realised capital costs are 100% covered by the CRCP.

4.6.4 Fos Cavaou

4.6.4.1 Trajectory of investment expenditure

The trajectory of the investment expenditure of Fos Cavaou over the ATTM6 period is marked by a significant increase, with an average expenditure of €9.2 million per year over this period, while the average expenditure was approximately €5.0 million per year during the ATTM5 period. However, the amounts remain low compared to the RAB.

In particular, Elengy envisages:

- the addition of a high-pressure compressor in order to reach directly the pressure of the transmission system in the absence of emissions thanks to the regasifiers. According to Elengy, this investment would reduce the terminal's minimum programming flow rate, increase the useful volume in the tank, reduce CO_2 emissions in the event of the emissions to the transmission system are being stopped (gas is flared);
- the development of speed variators on electric motors in order to obtain electricity consumption gains;
- a weld recovery operation on the line allowing reloading operations.

In accordance with the incentive regulation mechanism applicable to investments of a budget greater than €10 million (see paragraph 3.3.2.1), certain projects may be subject to an audit to define a target budget. This is particularly the case for the high-pressure compressor project, for which the budget is greater than €10 million. This list is not exhaustive, as new projects may be incepted during the period covered by the ATTM6 tariff.

CRE constructs the forecast capital charges trajectory for the ATTM6 tariff for Fos Cavaou, based on the investment expenditure trajectory requested by Elengy for this tariff period:

In current €m	2021	2022	2023	2024	Annual average ATTM6	Annual average ATTM5*
TOTAL	3.9	7.4	11.4	13.9	9.2	5.0

**average of investment expenditures made 2017-2019 and estimated 2020*

4.6.4.2 Trajectory of capital expenses

The table below shows the forecast trajectory of the RAB and assets under construction (AuC) of Fos Cavaou from 2021 to 2024:

Fos Cavaou, in current €m	2021	2022	2023	2024	Average 21 - 24
RAB at 01/01/N	**643.1**	**649.1**	**631.8**	**612.9**	**634.2**
Commissioning*	32.2	8.8	6.7	24.4	18.0
Depreciation	-32.7	-33.6	-34.7	-35.9	-34.2
RAB at 31/12/N	642.6	624.3	603.8	601.3	618.0
Revaluation	6.4	7.5	9.1	9.0	8.0
Assets under construction (AuC)	4.7	7.0	12.0	3.0	6.7

**Investment entered in the regulated asset base (RAB)*

The table below details the forecast trajectory of the normative capital charges (NCC) of Fos Cavaou from 2021 to 2024 adopted by CRE:

Fos Cavaou, in current €m	2021	2022	2023	2024	Average 21 - 24

RAB at 01/01/N	643.1	649.1	631.8	612.9	634.2
Return on the RAB	50.0	48.4	47.0	46.1	47.9
Depreciation of the RAB	32.7	33.6	34.7	35.9	34.2
Return on fixed assets under construction	0.2	0.2	0.4	0.3	0.3
Normative capital charges	**82.8**	**82.2**	**82.1**	**82.3**	**82.3**
- of which STS impact (RAB: €26.8 m)	*3.4*	*3.4*	*3.4*	*3.4*	*3.4*

** Affected share of the Common Function (Head Office): ATTM6 - 72.5%*

CRE recalls that the differences between forecast and realised capital costs are 100% covered by the CRCP.

4.7 CRCP as at 31 December 2020

4.7.1 Montoir-de-Bretagne

In its tariff demand, Elengy estimated the total balance of the CRCP as at 31 December 2020 to -€23.8 million to be returned to the terminal users by a reduction in the allowed income for the ATTM6 period, of which -€7.1 million of the balance of the CRCP for the period 2016_{actual}-$2018_{estimated}$ and -€16.6 million of the CRCP for the period 2018_{actual}-$2020_{estimated}$. The latter mainly consists of:

- income from subscriptions much higher than the tariff forecasts, in particular revenue related to additional unloading subscriptions;
- capital charges slightly lower than the tariff forecasts, linked to lower than expected investments;
- energy costs slightly higher than the tariff forecasts, related to the increase in activity observed in 2019 and 2020 at the terminal.

CRE analysis

The balance of the CRCP at 31 December 2020 estimated by CRE in the calculation of Montoir-de-Bretagne's allowed revenue amounts to -€22.3 million, which will be deducted from the charges to be covered. The deviation from Elengy's initial request comes from:

- a correction of a calculation error in the subscription revenue for the period 2018-2020;
- the update of the balance of the CRCP for the year 2020, on the one hand, on the item associated with the NCCs, since Elengy has revised its estimated level of expenditure for 2020 downwards, and on the other hand, on the 2020 subscription revenue, having revised its subscription level for 2020 downwards.

Item in €m	Elengy's request	Amount adopted by CRE
Revenue	-17.4	-15.0
Normative capital charges	-0.6	-1.6
Energy costs	+1.4	+1.4
CRCP 2018-2020	**-16.6**	**-15.2**
Outstanding balance of the CRCP 2016-2018	**-7.1**	**-7.1**
Balance of the CRCP as at 31 December 2020	**-23.6**	**-22.3**

The amount of the balance of the CRCP as at 31 December 2020 will be spread over 4 years and will be included in the allowed income over the ATTM6 period. As the amount for 2020 deviations is provisional, the final value will be included in the balance of the CRCP as at 31 December 2022 during the mid-period tariff review.

4.7.2 Fos Tonkin

In its tariff demand, Elengy estimated the total balance of the CRCP as at 31 December 2020 to be -€2.9 million to be returned to the terminal users by a reduction in the allowed income for the ATTM6 period, of which -€2.8 million

of the balance of the CRCP for the period 2016_{actual}-$2018_{estimated}$ and -€0.1 million of the CRCP for the period 2018_{actual}-$2020_{estimated}$. The latter mainly consists of:

- income from subscriptions higher than the tariff forecasts, in particular revenue related to additional the unregulated activity;
- capital costs higher than the tariff forecasts, related to larger than expected investments (associated with the restructuring of the terminal);
- slightly lower than expected energy costs.

CRE analysis

The balance of the CRCP at 31 December 2020 estimated by CRE in the calculation of Montoir-de-Bretagne's allowed revenue amounted to -€2.5 million, which will be deducted from the charges to be covered. The difference from Elengy's initial request is mainly due to a correction of a calculation error in the 2018-2020 subscription revenue, from the update of the balance of the CRCP 2020, in particular on the item associated with the NCCs, since Elengy has revised its estimated level of expenditure for 2020 downwards.

Item in €m	Elengy's request	Amount adopted by CRE
Revenue	-2.0	-0.8
Normative capital charges	+2.4	+2.0
Energy costs	-0.6	-0.8
CRCP 2018-2020	**-0.1**	**+0.3**
Outstanding balance of the CRCP 2016-2018	**-2.8**	**-2.8**
Balance of the CRCP as at 31 December 2020	**-2.9**	**-2.5**

The amount of the balance of the CRCP as at 31 December 2020 will be spread over 4 years and will be included in the allowed income over the ATTM6 period. As the amount for 2020 deviations is provisional, the final value will be included in the balance of the CRCP as at 31 December 2022 during the mid-period tariff review.

4.7.3 Fos Cavaou

In its tariff demand, Elengy estimated the total balance of the CRCP for the period 2018_{actual}-$2020_{estimated}$ at €6.9 million to be returned to the terminal users by a reduction in the allowed income for the ATTM6 period. This CRCP mainly comprises revenue from subscriptions higher than the tariff forecasts, in particular revenue related to additional unloading and reloading subscriptions;

In its tariff demand, Elengy estimated the total balance of the CRCP as at 31 December 2020 to -€14.3 million to be returned to the terminal users by a reduction in the allowed income for the ATTM6 period, of which -€7.2 million of the balance of the CRCP for the period 2016_{actual}-$2018_{estimated}$ and -€6.9 million of the CRCP for the period 2018_{actual}-$2020_{estimated}$. The latter mainly comprises revenue from subscriptions higher than the tariff forecasts, in particular revenue related to additional unloading and reloading subscriptions.

CRE analysis

The balance of the CRCP at 31 December 2020 estimated by CRE in the calculation of Fos Cavaou's allowed revenue amounts to -€4.0 million, which will be deducted from the charges to be covered. The difference from Elengy's initial demand comes from the update of the balance of the CRCP 2020, in relation to additional revenue received for 2020 and higher than originally forecast capital costs. In addition, CRE incorporates €6.1 million in financial expenses associated with the STS dispute (see paragraph 4.3).

Item in €m	Elengy's request	Amount adopted by CRE
Revenue	-7.4	-8.9
Normative capital charges	+0.2	-0.7
Energy costs	+0.2	+0.3
CRCP 2018-2020	**-6.9**	**-9.3**
Outstanding balance of the CRCP 2016-2018	**-7.1**	**-7.1**
STS		*+6.1*
Balance of the CRCP as at 31 December 2020	**-14.3**	**-10.4**

The amount of the balance of the CRCP as at 31 December 2020 will be spread over 4 years and will be included in the allowed income over the ATTM6 period. As the amount for 2020 deviations is provisional, the final value will be included in the balance of the CRCP as at 31 December 2022 during the mid-period tariff review.

4.8 Allowed income for the period 2021-2024

The allowed income of LNG terminals for the period 2021-2024 are defined as the sum of the following elements:

- net operating expenses (including energy costs and decommissioning provisions);
- normative capital charges;
- the clearance of the balance of the CRCP calculated as at 31 December 2020.

4.8.1 Montoir-de-Bretagne

Montoir-de-Bretagne's allowed income is broken down as follows:

In current €m	2021	2022	2023	2024	Annual average ATTM6
NOE (excluding energy)	37.9	37.9	38.3	39.0	38.3
Energy costs	4.4	5.5	5.5	5.4	5.2
Decommissioning provisions	1.4	1.4	1.5	1.5	1.4
NCC	37.2	34.1	34.4	34.8	35.1
CRCP clearance	-5.8	-5.8	-5.8	-5.8	-5.8
TOTAL	**75.0**	**73.0**	**73.8**	**74.9**	**74.2**

Montoir-de-Bretagne's allowed income changes as a result of -14.5% between 2019 and 2021, particularly in connection with a decrease in the remuneration of the WACC and leads to an average annual change of -0.1% per year over the ATTM6 period.

4.8.2 Fos Tonkin

Fos Tonkin's allowed income is broken down as follows:

In current €m	2021	2022	2023	2024	Annual average ATTM6
NOE (excluding energy)	12.6	13.1	12.9	13.1	12.9
Energy costs	1.3	1.4	1.6	1.6	1.5
Decommissioning provisions	-	-	-	-	-
NCC	1.9	3.1	3.5	4.0	3.1
CRCP clearance	-0.6	-0.6	-0.6	-0.6	-0.6
TOTAL	**15.1**	**17.0**	**17.4**	**18.0**	**16.9**

Fos Tonkin's allowed income changes as a result of -66.4% between 2019 and 2021, in relation to the restructuring of the terminal and leads to an average annual change of +6.0% per year over the ATTM6 period.

4.8.3 Fos Cavaou

Fos Cavaou's allowed income is broken down as follows:

In current €m	2021	2022	2023	2024	Annual average ATTM6
NOE (excluding energy)	38.7	38.2	37.8	38.4	38.3
Energy costs	3.8	4.6	5.4	5.0	4.7
Decommissioning provisions	1.8	1.8	1.9	1.9	1.8
NCC *Of which STS dispute*	82.8 *3.4*	82.2 *3.3*	82.1 *3.2*	82.3 *3.2*	82.3 *3.3*
CRCP clearance	-2.7	-2.7	-2.7	-2.7	-2.7
TOTAL	**124.4**	**124.1**	**124.4**	**124.8**	**124.4**

Fos Cavaou's allowed income changes as a result of -2.2 % between 2019 and 2021, particularly in relation to the decrease in the remuneration of the WACC and leads to an average annual change of +0.2% per year over the ATTM6 period.

4.9 Forecast capacity subscriptions

4.9.1 Elengy's request

In 2019 and 2020, in a context of the return of LNG to Europe, Elengy carried out several calls to the market to allow players to subscribe to the terminal capacities over long horizons. At the end of these procedures, the capacities of the Montoir terminal (123 TWh) are fully subscribed until 2035 and those of the Fos Cavaou terminal (100 TWh) are 87% subscribed until 2030. Finally, Fos Tonkin's activity, which long-term subscriptions expired at the end of 2020, has been able to be maintained thanks to subscription commitments up to 2028, despite an activity volume of the site reduced compared to in previous years (18 TWh from 2021, compared to 35 TWh previously).

Elengy proposes to set the forecast subscription trajectory only from subscriptions in the portfolio for each terminal.

In addition to this portfolio, Elengy proposes to consider an additional 2 TWh/year (2 unloadings per year) for the Fos Cavaou terminal from 2021 to 2024.

In view of market conditions, Elengy does not consider any reloading of large LNG vessels over the period ATTM6.

4.9.2 CRE analysis

Given successful calls to the markets in 2019, the Fos Tonkin terminal is 100% subscribed until 2028 and Montoir is almost fully subscribed until 2035 (excluding 2022).

With regard to Fos Cavaou, the call to the market conducted by Elengy in 2020 did not allow new long-term subscriptions. However, the subscription rate of the terminal was already high over the period 2021-2024 (87% of the terminal is subscribed until 2030).

In this context, CRE considers that the assumptions proposed by Elengy are consistent and thus adopts the subscription trajectories provided by Elengy for the calculation of the ATTM6 tariff:

In current €m	2021	2022	2023	2024
Montoir	122.5 TWh *134 unloadings*	109.4 TWh *111 unloadings*	123.0 TWh *123 unloadings*	123.0 TWh *120 unloadings*
Fos Tonkin	18.0 TWh *36 unloadings*	18.0 TWh *36 unloadings*	18.0 TWh *36 unloadings*	18.0 TWh *36 unloadings*
Fos Cavaou	89.2 TWh *87 unloadings*	89.2 TWh *87 unloadings*	89.2 TWh *87 unloadings*	89.2 TWh *87 unloadings*

Subscription income is 100% in *ship or pay*. Additional revenue is 75% covered by the CRCP.

4.10 Evolution of tariff trajectory in the use for regulated LNG terminals

CRE is attached to the principle of price continuity. Thus, in order to avoid significant variations and sometimes in opposite directions between different tariff periods, or from one year to the next, the regulator spreads the evolution of the tariff terms on the basis of the trajectory of the charges to be covered and the forecast subscriptions for the tariff period.

The applicable tariff schedules are defined in section 6.4 of this deliberation.

Changes in the allowed income of the three LNG terminals, combined with the subscription trajectories planed by Elengy, lead to the following tariff changes over the ATTM6 period:

	Average tariff change between the ATTM5 and ATTM6 period
Montoir	-24.7 %
Fos Tonkin	-24.2 %
Fos Cavaou	+0.1 %

Given the balance between forecast subscription income and allowed income over the period 2021- 2024 and the mid-period changes in the tariff schedule, annual differences between subscription income and allowed income may exist. The sum discounted at the risk-free rate of 1.7% of these annual deviations over the period is, by construction, equal to 0. The principles of annual change of terms are defined in 3.2.2 of the deliberation.

Thus, for the ATTM6 tariff period, the forecast allowed income and forecast income are as follows:

Montoir, in current €m	2021	2022	2023	2024	Net discounted value
Forecast allowed income	75.0	73.0	73.8	74.9	284.6
Forecast tariff income equal to the spread allowed income used to calculate the annual price change (excluding clearance of the CPCC balance)	80.7	66.3	74.9	74.8	284.6
Annual difference between forecast income and forecast allowed income	5.6	-6.8	1.1	-0.1	0

Fos Tonkin, in current €m	2021	2022	2023	2024	Net discounted value
Forecast allowed income	15.1	17.0	17.4	18.0	64.7
Forecast tariff income equal to the spread allowed income used to calculate the annual price change (excluding clearance of the CPCC balance)	17.8	16.4	16.6	16.6	64.7
Annual difference between forecast income and forecast allowed income	2.7	-0.6	-0.8	-1.4	0

Fos Cavaou, in current €m	2021	2022	2023	2024	Net discounted value
Forecast allowed income	124.4	124.1	124.4	124.8	477.2
Forecast tariff income equal to the spread allowed income used to calculate the annual price change (excluding clearance of the CPCC balance)	123.8	123.8	124.9	125.2	477.2
Annual difference between forecast income and forecast allowed income	-0.6	-0.3	0.5	0.4	0

5. TARIFF STRUCTURE FOR REGULATED LNG TERMINALS AND SERVICES OFFERED

5.1 Continuity of the existing structure

The tariff structure in effect under the ATTM5 tariff is as follows:

- for the unloading service: a number of berthing operations term (TNA, in €/berthing operation), a quantity unloaded term (TQD, in €/MWh, reduced by 25% in the case of a short-term subscription, known as a *spot* service), a term in kind (TN, in % of the gas unloaded);
- for the loading service: a number of berthing operations term (TNA, in €/berthing operation), a fixed reloading term (TFR, in €/reloading), a quantity reloaded term (TQR, in €/MWh reloaded);
- additional optional services, the uniform send-out service and the optional storage services, with dedicated pricing terms.

In its public consultation on 30 July 2020, CRE had indicated that it would not change this tariff pricing structure. All respondents to the public consultation supported this approach.

5.2 Services offered at the terminals

5.2.1 Integrated unloading service

5.2.1.1 Integrated unloading offer

Regulated LNG terminals offer an integrated unloading offer: to each unloading operation subscribed corresponds storage and regasification capacities. It is divided into two main services:

- the basic service, accessible to any shipper from the first subscription, which allows capacity for month M to be reserved until the 20th day of month M-1;
- The spot service, reserved for unloading operations booked, for a given month M, after the 20th day of month M-1.

In the public consultation on 30 July 2020, CRE questioned the market regarding the renewal of the terms of the integrated unloading services offered by the regulated terminals. CRE was in favour of maintaining the existing offer, with a view to visibility and simplicity of use of the terminals.

All of the respondents to the public consultation are in favour of maintaining the existing integrated unloading offer, which satisfies users of the regulated terminals.

CRE decides to maintain the existing integrated unloading offer, broken down into the basic service and the spot service.

The different tariffs for unloading services are described in detail in section 6.2.1 of this deliberation.

5.2.1.2 Spot service

CRE consulted market participants on Elengy's proposal to change the TQD of the spot service, by removing the 25% discount in relation to the TQD of the basic service and by creating a single TQD spot for all LNG terminals, corresponding to the average of the TQDs of the current basic service of the various terminals.

Respondents are divided over this proposal. One shipper is in favour of Elengy's proposal, stating, however, that the proposed single spot tariff must be sufficiently attractive to encourage shippers to perform intra-monthly operations. Other players are in favour of a single tariff, in the interests of attractiveness of the Fos Cavaou terminal, with arrivals at Fos being beneficial to the French transmission network.

However, the majority of shippers are only in favour of removing the discount, and is opposed to the single tariff between terminals. They consider that the structure of the short-term tariffs should reflect, as the long-term tariffs do, the costs of each terminal, and that the tariff should not favour short-term shippers over shippers whose long-term commitments have allowed the terminal to be built or maintained.

As recalled in the public consultation, CRE is attached to the principle of individual tariffs per terminal, introduced in ATTM3, and which allows for a better reflection of the costs of the service provided for each terminal.

Furthermore, as one shipper also recalls in the response to the public consultation, short-term capacity accounts for less than 2% of unloading operations (0.5 TWh in 2018, 2 TWh in 2019). To date the terminals' capacites are mostly subscribed within the framework of long-term commitments.

Finally, CRE recalls that the terms of subscription for the spot service only allow shippers to reserve capacity after the 20th of month M-1 for unloading in month M, provided that capacity is still available. The spot service therefore only concerns last minute arbitrations. It does not offer the scheduling visibility permitted by the basic service. Nor does it give the same rights to use the terminal, particularly with regard to storage. CRE therefore considers that subscriptions within the framework of the spot service do not compete with the basic service. On the contrary, these subscriptions are part of a context of short-term competition between global and European terminals. It therefore seems important to maintain the short-term competitiveness of the French terminals and CRE considers it necessary to maintain the discount for the spot tariff.

CRE therefore decides not to change the pricing structure of the spot service.

5.2.2 Reloading service

This service allows the reloading of a LNG previously unloaded. It is dedicated to vessels with a capacity of more than 40,000 m³, with the loading activity of small-scale LNG vessels no longer being regulated from 1 April 2021 (see 2.2 of this deliberation).

CRE maintains the structure in force in the ATTM5 tariff for the ATTM6 tariff:

- a fixed berthing term (TNA);
- a fixed reloading term (TFR);
- a variable term: A quantity reloaded term (TQR), based on the contractual loaded quantity.

5.2.3 Additional services and mechanisms

In addition to the unloading service, Elengy and Fosmax LNG offer various services and mechanisms of which CRE proposed, in its public consultation on 30 July 2020, renewing for the ATTM6 tariff:

- the uniform send-out option that can be subscribed in addition to the unloading service, which allows shippers to ask for a uniform send-out profile over the transmission system, for a period of 20 to 40 days from the date of unloading the cargo;
- pooling which allows any shipper with subscriptions in at least one of the three regulated terminals and who has not planned to use them in full in month M, to use part of this capacity in one of the other regulated terminals, in exchange for a specific tariff;
- the subscription account to which unscheduled or cancelled operations with sufficient advance notice are credited. This account may then be debited to schedule short-term operations;
- the "*Use It Or Lose It* " (UIOLI) mechanism for unused regasification capacity;

- the capacity release mechanism offers regasification subscribers the option of explicitly renouncing the use of their capacities for months M+1 and M+2. These capacities remain payable by their initial holder under the terms of the *"ship or* pay" clause until they are possibly reserved by another shipper;
- the secondary market for regasification capacities;
- the LNG exchange point allowing users to exchange LNG quantities in the tank with each other.

The shippers are generally in favour of it. However, two of them have requests for changes on certain scheduling mechanisms: the subscription account and pooling.

5.2.3.1 Subscription account

The following two types of unloading operations are credited to the subscription account:

- subscribed to as part of an annual commitment and unscheduled in the preparation of annual programmes;
- scheduled for month M then cancelled no later than the 20th of month M-2.

The subscription account is then used to schedule unloading over a subsequent month M, when establishing the monthly programme for that subsequent month M or intra-monthly in the subsequent month M.

Two shippers would like scheduled unloading for one month M to be cancelled until the 20th of month M-1 in order to be credited to the subscription account. One of these shippers also asks to be able to use the subscription account credits to book intra-annual operations, without waiting for the monthly programme for the month for which the operation would be scheduled.

CRE considers that a cancellation of unloading up to the 20th day of month M-1 would allow long-term shippers to pre-empt the capacity and cancel it at the last minute, and would therefore reduce the likelihood that another shipper will be able to subscribe to the capacity that has become available.

However, the intra-annual use of the subscription account credits could provide more flexibility. CRE asks Elengy to carry out work relating to this request within the framework of the LNG discussions. At the end of this work, it will study the opportunity for this change.

5.2.3.2 Pooling

Pooling allows a shipper with unused subscribed capacity for month M in one of the three regulated terminals, to use it for the same month M, from the 20th of month M-1, in another regulated terminal, without having to repay the full cost of unloading in the new terminal.

One shipper requests that pooling be made available for any application for intra-annual or monthly operation scheduling at a terminal, particularly by using the shipper's subscription account at another terminal.

CRE recalls that the objective of pooling is to limit the additional cost of a short-term unloading terminal change, in order to deal with last-minute logistical constraints. Its purpose is not to pool subscriptions between terminals, and to ensure that the capacity subscribed in a terminal generally provides access to the other terminals. CRE therefore is not changing the pooling terms.

The various ancillary services and mechanisms are described in detail in parts 6.1 and 6.2 of this deliberation.

5.2.4 Changes to the services offered

5.2.4.1 Quarterly booking for year N+1

Each year, during the fourth quarter, operators shall establish for the following year an annual unloading programme based on the requests of users who have subscribed annual capacity in the terminal: each long-term shipper distributes their reservations monthly. Then, intra-annually, operations are booked according to the first come first served rule, either via the basic service, before the monthly programme is established (20th of month M-1 for month M), or via the spot service (after the 20th of month M-1).

At the time of the public consultation on 30 July 2020, CRE questioned the market on the opportunity to create "quarterly capacities," which would offer the possibility of reserving an unloading slot within a given quarter of year N, from year N-1. The unloadings thus reserved would be taken into account when establishing the annual programme. The service would only concern the years for which some available capacity remains in the terminal. CRE had spoken in favour of this new service, considering, however, that priority should be left to the long-term subscriber compared to the quarterly subscriber in the event of similar slot requests.

A majority of actors voted in favour of CREation of quarterly reservations, stressing that this will allow shippers who do not have long-term subscriptions to have more visibility by securing unloading in advance, and thus avoid the delivery of these cargoes to other markets. However, several shippers insist on the need to preserve the rights of long-term subscribers, who are the main contributors to the financing of regulated terminals. These shippers welcome CRE's proposal to retain priority for long-term bookings.

CRE considers it difficult to reserve unloading for year N before the publication of the annual programme in November or December N-1. The implementation of quarterly capacities would provide more visibility to certain shippers, thus improving the attractiveness of the French terminals.

CRE decides to set up quarterly unloading reservations at LNG terminals as of 1 April 2021.

For each terminal, the quarterly capacities made available from year N-1 will correspond to the available capacity, that is to say 3/12th of the unsubscribed annual capacity, less the forecast unavailabilities for maintenance, with a 50% safety coefficient being applied to this difference.

A specific additional tariff term of €0.1/MWh unloaded, in addition to the terms applicable to the integrated unloading service, shall apply to the quarterly capacity.

In the event of a conflict of unloading date during the preparation of the annual programme, long-term subscribers will be given priority over quarterly subscribers, while ensuring a slot for quarterly subscribers on another date.

The procedures applicable to the quarterly capacity reservation are described in section 6.2.1.2 of this deliberation.

5.2.4.2 Specific storage service

The ATTM5 tariff provides a dedicated storage service at the Montoir and Fos Cavaou terminals. In these terminals, a portion of the tank volume (625 GWh at Montoir, 100 GWh at Fos Cavaou) is allocated to shippers in proportion to their subscriptions. This free system is part of the basic service for multi-annual, annual, and intra-annual subscribers (subscriptions between the publication of the annual programme in December N-1 and 20th of month M for unloading in M+1). The unloading of vessels in the spot service do not have access to this service. Dedicated storage capacities are offered in annual form. Where the terminal's capacity is not fully subscribed, part of the tank volume dedicated to the dedicated storage service remains free. This volume is then offered for sale on a monthly basis, under the name "monthly storage space".

At the time of the public consultation on 30 July 2020, CRE consulted the market on the possibility of several developments in the marketing methods for dedicated storage: end of automatic access to intra-annual subscribers, the introduction of an annual window for marketing residual dedicated storage in December N-1 (called the specific storage service) and the establishment of the sale of residual storage every month or for the remainder of the year at the time of each monthly programme. CRE was in favour of these developments.

All of the respondents to the public consultation are in favour of the new marketing methods for dedicated storage and specific storage, stressing that they allow the use of LNG storage tanks to be maximised without adversely affecting the service offered to long-term subscribers.

CRE considers that the establishment of an annual window, supplemented by the marketing of residual volumes in monthly form or for the rest of the year, by relaxing the marketing methods, would be likely to improve the attractiveness of the storage offer. In addition, the new marketing arrangements safeguard the "basic service" for annual and multi-year subscribers, who are the main contributors to the financing of LNG terminals infrastructure.

CRE decides to establish dedicated storage and specific storage services for the Montoir and Cavaou terminals as of 1 April 2021.

The terms of these services are as follows:

- a portion of the tank volume of the Montoir and Cavaou terminals is reserved for the purpose of dedicated storage and specific storage services, up to 625 GWh for Montoir and 100 GWh for Cavaou;
- as part of the basic service, dedicated storage volumes are allocated free of charge to annual and multi-year subscribers, in *proportion* to their subscriptions. Intra-annual subscribers do not have access to this service;
- where part of the dedicated storage volume remains free after the establishment of the annual programme, a marketing window for this residual volume shall be opened in December N-1 for year N. This service, called specific storage, is open to all shippers and offered for sale in annual form. Its price corresponds to the quantity stored term (TQS);
- if storage capacity remains available at the end of the December N-1 annual window, these shall be offered for sale, in monthly form or for the remainder of the year, at the time of each monthly programme. On this occasion, the specific storage may be reserved for several consecutive months from month M+1, without

exceeding the month of December of year N. The tariff corresponds to the quantity stored term (TQS). If the volumes are not consumed, they go back into the shared storage of the terminal for the month in question.

The procedures applicable to the dedicated storage and specific storage marketing are described in section 6.2.1.5 of this deliberation.

5.2.4.3 Extension of inventory in M+2 for small-scale activities

In the ATTM5 tariff, for unloading during month M, the inventory rules are as follows:

- if no unloading operation is planned by the shipper concerned for month M+1, the LNG in the tank shall be deemed to be sent-out uniformly until the last day of month M+1;
- if an unloading operation is planned by the shipper concerned for month M+1, the LNG in the tank shall be deemed to be sent-out uniformly until the unloading day of month M+1;

At the time of the public consultation on 30 July 2020, CRE consulted the market on the opportunity to implement for the retail LNG players (loading tank trucks or small-scale LNG vessels) an LNG storage service up to month M+2 following unloading during month M. CRE had decided in favour of this service provided that it is priced at the price of the storage quantity term (TQS), since the reservation of these volumes was of a similar nature and intention to that carried out in the framework of the specific storage mechanism.

Contributors to the public consultation are divided over this proposed development. While some shippers are not opposed to the introduction of additional flexibility to support retail LNG, others consider that such a service would reduce the storage capacity of long-term shippers. Several actors share CRE analysis and recommend an application of the quantity stored term for users of the service.

CRE considers that the M+2 inventory extension service would enable the expansion of the market for the loading of small-scale LNG vessels and tank trucks, for the benefit of the attractiveness of French terminals. The retail LNG actors in fact have a discontinued unloading of vessels profile and are, therefore, constrained in their development by the current end of inventory rule at the end of month M+1.

CRE decides to set up as of 1 April 2021 an inventory extension service to month M+2 following a unloading in M, reserved for retail LNG players (bunkering and retail LNG).

The operational procedures of the proposed inventory extension service are as follows:

- the storage volume dedicated to this service is a maximum of 50 GWh in each terminal;
- the service is reserved for retail LNG players, that is, proof of a capacity subscription for the loading of tank trucks or small-scale LNG vessels in the month concerned by the inventory extension;
- the service is priced at the price of the quantity stored term (TQS).

The procedures applicable to the inventory extension in M+2 are described in section 6.2.1.6 of this deliberation.

5.2.5 Unloading without regasification

As part of the integrated service, the capacities subscribed by shippers to the LNG terminals explicitly correspond to unloading capacities. These LNG unloading capacities entitle the operator to allocate a corresponding level of regasification capacity, on the basis of which GRTgaz automatically allocates transmission capacities to the adjacent PITTM (LNG terminals-transmission system interface point).

At the time of the public consultation on 30 July, CRE questioned the market on the possibility of redefining the regasification capacity for the actors unloading LNG for retail activities only (loading tank trucks, reloading and bunkering) without regasification to the transmission network. For any simultaneous subscription of unloading and reloading, Elengy proposed redefining the regasification capacity at the terminal as equal to "*unloading capacity - reloading capacity*". CRE had expressed reservations as to this redefinition relating to the operation of the terminal. Thus, a shipper who does not use their loading capacity would *ultimately* see their LNG in tank being regasified and released on the transmission network. CRE recalled that a LNG release on the transmission network must systematically give rise to the allocation of regasification capacity.

Market participants are divided with respect to Elengy's proposal. Several shippers are in favour of the principle, but would like the redefinition of regasification capacity to apply also to long-term subscriptions and not -only new simultaneous subscriptions. On the other hand, some players are not in favour of this, and several point out that the proposed procedures should be clarified. The infrastructure operators point out that such a mechanism, if implemented, must ensure that the LNG released on the transmission system is not released by circumventing subscription to the PITTM.

CRE is in favour of the principle of a more explicit definition of the regasification capacities allocated by the terminal operator to shippers. Retail LNG activities do not require release to the transmission system, thus it seems appropriate to subtract these activities from the automatic allocation of capacity to PITTMs. Such an exemption could contribute to the growth of this new market. Nevertheless, as several actors point out, CRE considers that the implementation procedures for this proposal still need to be clarified. CRE considers that it could be more broadly relevant to create an unloading offer dedicated to retail LNG activities, which would be differentiated from the integrated service currently subscribed by all the actors. CRE calls for this issue to be dealt with as part of the LNG consultation.

5.2.6 Backhaul at the PITTMs

In each terminal, shippers posessing LNG in tank and releasing gas to the transmission network (according to a profile notified by the operator) have an intra-day flexibility service, allowing them to modulate their emissions from day to day upwards or downwards if they so wish and if the conditions of the terminal allow it. The flow rates at stake are restricted, around a dozen GWh/d, and randomly available because it depends on storage constraints, minimum emissions, and the unloading programme of the terminal.

During the public consultation on 30 July, CRE questioned the market on the opportunity of a new "virtual backhaul service at the PITTM" proposed by Elengy. The principle of such a service would be to no longer restrict the availability of flexibility to solely players with LNG in the storage tank and releasing it on the transmission network, but to offer it to any interested party. Each party could thus bring LNG to the terminal by using the backhaul service from the transmission network during the intra-day flexibility allocation window, with virtually liquefied gas volumes giving rise to the same rights and obligations as for any customer present in the shared storage. CRE had expressed the disadvantage of this new service, considering, on the one hand, that the principle of opening access to this flexibility to all shippers active on the transmission network was questionable, and, on the other hand, that the virtual backhaul mechanism would prioritise the terminal's retail LNG activities over the contribution of LNG terminals to the security of supply.

Most actors who responded to the public consultation are in favour of the principle of a virtual backhaul service, stressing that it would make it possible to value the residual flexibility of the terminals and reduce the cost of LNG as a transmission fuel, thanks to increased competition in the retail LNG value chain. Terminal operators point out that the residual quantities offered each day for the virtual backhaul service should be quite limited. The impact of this service on the other activities would therefore be limited. On the other hand, several shippers have reservations about opening up this service to any interested player and rather propose restricting it to subscribers of unloading capacity to the terminals.

CRE acknowledges the interest of market participants in the principle of a virtual backhaul service. In fact, some participants do not have the possibility of continuously transporting LNG by sea but can position themselves on small volumes of retail LNG to be offered out of the terminal. A backhaul service would allow these players to have an additional source of supply and, therefore, encourage the growth of the retail LNG market. CRE also notes that such services have recently been implemented or are under consideration in several European terminals. CRE asks Elengy to continue its work on the subject within the framework of the LNG consultation, particularly with regard to potential beneficiaries of the backhaul service and the exact terms of interaction between the transmission network and the LNG terminals *via* the PITTMs (LNG terminals-transmission system interface point). The impact on the proper functioning of the wholesale market in the single market area will also have to be taken into account.

6. TARIFF FOR THE USE OF REGULATED LNG TERMINALS

6.1 Obligation to pay for subscribed capacities (*ship or pay*)

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

6.2 Services offered at the terminals

6.2.1 Bundled unloading service

Operators offer a bundled unloading service, which, in addition to the unloading capacity, gives entitlement to LNG tank storage capacity and regasification for sending-out on the transmission network.

The unloaded gas enters the shipper's tank stock, then is gradually regasified and released on the transmission network. Instead of this send-out on the transmission network, the shipper may use its gas in stock as part of other terminal services:

- the reloading of cargo (see paragraph 6.2.3.1);
- the loading of tank trucks (see paragraph 6.2.4.2);
- the loading of small scale LNG vessels (see paragraph 6.2.4.3).

The subscription of regasification capacities, via the bundled unloading service, results in the right and the obligation to subscribe to the corresponding entry capacity on the transmission network with GRTgaz.

6.2.1.1 Basic service

This service is available to any shipper from the first subscription. It allows subscribing to one slot for month M until the 20th of month M-1. Shippers who have subscribed annual or quarterly capacities (see paragraph 6.2.1.2) automatically benefit from it, up to the annual capacity (quarterly respectively) subscribed. In addition, a shipper may book unloading via the basic service among free slots after the annual programme has been established.

A shipper's end-of-month storage level (inventory level) at a terminal is determined according to the following rules:

- if unloading is planned for that shipper for month M+1, their end-of-month M storage level is determined by assuming a uniform send-out of the last cargo unloaded during month M until the day of unloading of the first cargo of month M+1;
- if no unloading is planned for month M+1, the end-of-month M storage level of a shipper is determined by assuming a uniform send-out of the last cargo unloaded during month M until the last day of month M+1.

The distribution of the physical emission of the terminal between shippers is based on the volumes of LNG unloaded and reloaded during the month on the LNG terminal, as well as the level of stock at the beginning of the month and the estimated end-of-month stock.

In order to minimise the impact of isolated cargo on other terminal customers, the terminal operators can anticipate, at their own initiative, the start of sending out of this cargo (within a deadline of two days). In this case, the shipper concerned is not obliged to have a guarantee corresponding to the expected volumes of send-out.

The tariff applicable to subscriptions via this service comprises:

- a number of berthing operations term (TNA, in €/berthing)
- a quantity unloaded term (TQD, in €/MWh)
- a gas in kind term (in % of the quantity actually unloaded).

6.2.1.2 Quarterly booking for year N+1

This service allows to subscribe to the bundled unloading of a vessel for a targeted quarter of the following year. It is marketed from year N-1 for unloading during a quarter of year N.

For each terminal, the level of marketable capacity for this service corresponds to the difference between the capacity available at the terminal ($3/12^{th}$ of the unsubscribed annual capacity) and the level of unavailability for planned maintenance considered to date for that quarter, with a 50% safety coefficient applied to this difference. For a given quarter of N the level of marketable capacity for the quarterly reservation is therefore defined as follows:

$$Marketed\ capacity\ = 0{,}5 \times [\frac{3}{12} \times \text{unsubscribed annual capacity} - planned\ maintenance\ unavailabilities]$$

For each terminal, the quarterly capacity booking service is only marketed for the years for which there is some available capacity remaining.

The subscriber of the quarterly capacity booking service shall comply with all the pricing terms defined in the basic service of bundled unloading. The quantity unloaded term (TQD), is increased by €0.1/MWh.

The establishment of the annual unloading programme takes into account quarterly capacity bookings. In the event of a conflict of unloading date during the preparation of the annual programme, long-term subscribers will be given priority over quarterly subscribers, while ensuring a slot for quarterly subscribers.

6.2.1.3 Spot service

This service offers booking of a bundled unloading slot, for a given month M, after the 20th day of month M-1.

Booking is done on the basis of the available capacities in the monthly schedule on the booking date.

The operator, at the request of the shipper, determines the send-out profile of a spot cargo. It calculates in a manner consistent with the shipper's request, provided that its impact on the daily emissions of other shippers does not exceed 35 GWh/d so as to make the space necessary in the tanks before the arrival date of the cargo,.

As part of a spot unloading operation, the terminal operator may decide, on their own initiative, to anticipate the associated send-out, within the deadline of two days, in order to limit their impact on other customers. In this case, the shipper concerned is not obliged to have a guarantee corresponding to the anticipated send-out volumes.

The service is billed on terms similar to those of the basic service, with the exception of the quantity unloaded term (TQD), which is equal to 75% of the basic service's TQD.

6.2.1.4 Flat send-out option

The subscription of this option causes the send-out of a cargo in the form of a constant send-out band over a period of 20 to 40 days from the date of unloading the cargo. This period is defined when subscribing to the flat send-out option, based on the request of the shipper and according to the terminal's technical possibilities.

This option is available to any shipper with a subscription to the basic service, from the publication of the annual unloading programme by the operator and until establishment of the monthly programme for the unloading month (before the 20th of M-1), according to the first come/first served principle.

The flat send-out option is not accessible through the spot service during month M of unloading. However, the spot service gives access to flat send-out for the residual LNG quantity during month M+1.

For each terminal, a shipper can subscribe no more than one flat send-out option per month and for a maximum annual quantity of 12 TWh.

For a given month, the sum of quantities unloaded with the flat send-out option may not exceed 20% of the terminal's total monthly regasification capacity.

6.2.1.5 Dedicated and specific storage services

Part of the volumes available in the tank at the Montoir and Fos Cavaou terminals are reserved for dedicated storage and specific storage services.

Dedicated storage and specific storage consist in keeping part of the terminal's storage volumes directly available to shippers. The tank volumes held through those services are freely available to shippers: the LNG can, therefore, be regasified and sent on the transmission network or used in the context of small scale services (reloading, bunkering, tank truck loading).

The dedicated storage, which is a free service, has the following modalities:

- at the Montoir terminal, 625 GWh of tank volume is reserved for the dedicated storage;
- at the Fos Cavaou terminal, 100 GWh of tank volume is reserved for the dedicated storage;
- as part of the basic service, shippers who subscribe to annual and multi-year unloading capacities receive a free and automatic allowance of part of the total annual dedicated storage volume, *pro rata* to their subscriptions. Shippers who do not have annual subscriptions do not have access to dedicated storage through their subscriptions;

The volume of dedicated storage at each terminal may be reviewed during the tariff update, based on the discussions in LNG Concertation.

The specific storage, which is a paid-for service, has the following modalities:

- where part of the dedicated storage volume remains free after the establishment of the annual programme, a marketing window for this residual volume shall be opened in December N-1 for year N. This window is open to all shippers and offered for sale in annual form. For each terminal, the storage capacity marketed in this way is priced at the price of the quantity stored term, TQS;
- if storage capacity is still available at the end of the December N-1 annual window, these shall be marketed in monthly form or for the remainder of the year at the time of each monthly programme. On this occasion, the specific storage may be reserved for the rest of the year (from month M+1 until the month of December of year N) or only for month M+1. For each terminal, the price corresponds to the quantity stored term, TQS. The unsold volumes go back into the shared storage for the month in question.

6.2.1.6 Extension of storage inventory in M+2 for small scale LNG services

This service allows shippers with loading capacities for tank trucks or small scale LNG vessels to keep LNG in stock until month M+2 following unloading in M.

The operational procedures of the storage inventory extension service in M+2 are as follows:

- for each terminal, the tank volume dedicated to this service is a maximum of 50 GWh;

- the service is reserved for small scale LNG players, that is, proof of a capacity subscription for the loading of tank trucks or small-scale LNG vessels in the month concerned by the inventory extension;
- the shipper requests the use of this service at the latest when establishing the monthly programme for month M+1 (i.e. the 20th of month M) for inventory extension over month M+2;
- the inventory level for which the shipper may request preservation for the 1st of the month M+2 may not exceed the most stringent of the following conditions:
    - the difference between its inventory level on the 1st of month M+1 and the balance of its unloading and reloading cargos scheduled for month M+1;
    - the small scale LNG loading capacity subscribed for month M+2, net of unloading cargo subscribed to the annual programme for the same month M+2;
    - the volume made available per terminal up to 50 GWh.

- once the volume has been allocated for M+2, the forecast end-of-month M+1 stock level is used to calculate the shipper's send-out ratio for month M+1. Any rescheduling by the shipper impacts this end-of-month stock level upwards or downwards;
- for each terminal, the service is priced at the price of the quantity stored term (TQS).

The volume allocated to this service for each terminal may be reviewed during the tariff update, based on the discussions in LNG Concertation.

6.2.2 Scheduling mechanisms

6.2.2.1 Obligation to respect the scheduling

Terminal users must stick to their scheduling, and any non-compliance with the scheduling that affects other users shall be compensated. Thus, any user cancelling a pre-scheduled unloading for month M, during month M, is obliged to compensate, either in gas or financially, the other user(s) whose send-out has been reduced accordingly.

6.2.2.2 Monthly scheduling

The owners of regasification capacity should accordingly tell the terminal operator, by the 20th day of month M-1 at the latest, their monthly unloading schedule demand for month M, together with some indication of their unloading schedule for months M+1 and M+2.

The terminal operator shall publish, on the 25th day of month M-1 for month M, the available capacities taking into account the capacities subscribed which are not the subject of a scheduling request. For information purposes, it also publishes this data for months M+1 and M+2. It updates this information on a daily basis.

6.2.2.3 Release of capacity

Regasification capacity holders may explicitly renounce to the use of their capacities during month M+1 and M+2. These capacities remain payable by their initial holder under the terms of the *"ship or* pay" clause until it is booked by another shipper.

6.2.2.4 'Use it or lose it'

If the schedule for month M does not show any available unloading slot, any cancellation of an unloading without notification, except in cases of force majeure, shall be recorded and the regulator shall be kept informed. When all the terminal capacities are subscribed, CRE may require, after analysis on a case by case basis, the concerned shipper to release subscribed capacity in order to free capacity at the terminal..

In the event of congestion for access to the regasification capacities of the terminal, and at the request of CRE, the terminal operator will provide it with all the information relating to reservation requests over the period concerned by the congestion.

In order to enable the effective functioning of the IUOLI mechanism, operators must publish at least the following data on their website:

- the marketable capacity of the terminal for the remaining months of the current year;
- the subscribed capacity of the terminal for the remaining months of the current year;

- the estimated number of unloading slots available for the remaining months of the current year.

This monthly publication will be supplemented by an aggregated annual publication:

- marketable capacity of the terminal, for the remaining years until the end of the terminal's marketing period;
- the terminal's available capacity, for the remaining years until the end of the terminal's marketing period.

Terminal operators give CRE access to the commercial information system to control unloading cancellations, postponements and emission expectations.

6.2.2.5 Subscription account

The subscription account (CS) allows the unscheduled or cancelled operations to be credited with sufficient advance notice. This account may then be debited to schedule short-term operations.

The applicable procedures are as follows:

- the CS is credited with fixed and variable terms (number of unloadings and unloaded quantities) of unscheduled operations when preparing annual programmes and operations cancelled before the 20th of month M-2 for month M;
- the CS is used for one month M when establishing the monthly programme for that month or intra-monthly;
- the CS can never be negative;
- the CS is reset to zero each year or at the end of each billing period, at least once a year;
- the CS is transferable by shippers to the secondary market.

6.2.2.6 Pooling

This service allows any shipper with capacity subscribed in at least one of the three regulated terminals and who has not planned to use them in full in month M, to use part of these capacities in one of the other regulated terminals. Through the pooling, the shipper can access, based on a specific tariff, the capacities still available after the 20th day of month M-1 in this second terminal.

The P amount due by the shipper for subscription to the second terminal via *pooling* is as follows:

$$P = \max([S - C]; 0) + \max(10\% * S; TNA) \text{ with:}$$

- S: cost of subscription in the second terminal, without *pooling*;
- C: *pooling* credit = cost of subscribed capacity not used in the other terminal;
- TNA: the berthing term of the second terminal.

Thus, the price of the *pooling* operation may not be less than the maximum between the TNA and 10% of the subscription price without *pooling*.

6.2.3 Other regulated services

6.2.3.1 Cargo reloading service

This service allows the shipper to load the LNG they own in the tank of the terminal in a vessel.

The tariff applicable to this service comprises:

- a fixed berthing term (TNA, in €/berthing),
- a fixed reloading term (TFR, in €/reloading),
- a variable term depending on the reloaded contractual quantity (TQR, in €/MWh).

It is dedicated to the loading of vessels with a capacity of more than 40,000 m³, the loading activity of small-scale-LNG vessels subject to an unregulated specific service (see paragraph 6.2.4.3).

6.2.3.2 LNG in tank exchange point

There is an LNG exchange point in each LNG terminal, enabling users to exchange quantities of LNG in tank between themselves.

The operating procedures for LNG in a tank exchange points are defined by the operators, on the basis of objective, transparent and non-discriminatory criteria; these are sent to CRE and published on the operators' websites.

The tariff for accessing LNG in tank exchange points comprises:

- a fixed term, which is equal to a maximum of €500 per month per exchange point,
- a term that is proportional to the quantities exchanged and is equal to a maximum of €0.01/MWh.

6.2.3.3 Secondary market for regasification capacities

Terminal users can wholly or partially transfer regasification capacities marketed by the terminal operator between themselves. The terminal operator will not invoice any amount in this respect to the buyer and/or the seller.

6.2.3.4 Specific services

The specific services proposed by operators, for example, official authorisation of tankers, are described in a catalogue of services published on the operator's website, with details of the applicable tariff for each service.

6.2.4 Unregulated services

In addition to the services that are subject to price regulation, operators offer a set of unregulated services: the terms and conditions of these services, including their price, are defined by the operators themselves, in a non-discriminatory manner.

6.2.4.1 Transhipment

This service allows the shipper to transfer LNG directly from one vessel to another, without using the terminal storage tank.

6.2.4.2 Tank truck loading

This service allows the shipper to load LNG in its possession in the terminal storage tank in a tank truck.

6.2.4.3 Small-scale LNG vessel loading

This service allows the shipper to load LNG in its possession in the terminal storage tank in a small-scale LNG vessel (up to 40,000 m^3).

6.3 Other provisions common to terminals

6.3.1 Gas in kind off-takes

Off-takes of gas in kind are undertaken for each terminal in accordance with the gas in kind term TN applied to the quantity of LNG actually unloaded by each terminal user (expressed in MWh per year).

The operator will carry out an annual minimum assessment of the use of gas in kind. If the amount of gas off-takes is greater than the amount of gas consumed by the LNG terminal, the operator shall return, either physically or financially, the surplus of gas to the shippers who have unloaded LNG at that terminal during the past year, pro rata to the quantities released. If it turns out that the amount of gas off-takes is not sufficient to cover the consumption of the terminal, the deficit balance for year N shall be carried over to the opening balance of year N+1.

In the event that the terminal operator anticipates a forecast send-out level below the minimum flow rate necessary for the reintegration of boil-off gas, it may be necessary to increase the quantities of gas collected beyond the term TN set out in this tariff deliberation. The operator must inform CRE and users of the terminal prior to this increase.

Under certain operational conditions, LNG terminals may consume additional gas in kind. Indeed, below a minimum send-out rate, and in the absence of boil-off gas compressor, terminal operators are forced to partially flare the LNG evaporations stored in the tanks, as they are unable to reintegrate them into gas send-out to the transmission system.

In this case, the additional quantities of gas flared shall be allocated to all users of the terminal concerned, in proportion to the difference for each of them between a threshold of 50% of the quantities scheduled in the annual unloading programme notified in December and the net quantities actually unloaded, that is, by deducting the quantities reloaded, over the period considered.

At the Montoir terminal, a compressor has been available since April 2017, in order to compress the boil-off gas to send it onto the transmission network. When using this compressor, the send-out is distributed among customers according to their quantities of LNG in stock on the first operating day of the compressor.

6.3.2 Management of send-out shut-down periods

In the event of a long-term lack of LNG unloading operations that is liable to undermine the terminal's cooling capacities, the operator is to inform CRE as soon as possible and proposes planned measures after consulting the users.

6.3.3 Cargo sharing arrangements

This service allows several shippers to share an unloading operation.

This service is charged on the basis of user subscriptions in accordance with the following terms:

- a fixed term, charged to each subscriber, which is equal to TNA/N:
    - where TNA is equal to the number of berthing tariff term in force for the terminal in question;
    - and N is equal to the number of users who have subscribed to regasification capacities as part of the unloading operation in question,
- a variable term, charged to each user, which is equal to TQD x Qe
    - where TQD is equal to the quantity unloaded tariff term in force for the terminal in question;
    - and Qe is equal to the quantity subscribed by each user as part of the unloading operation in question.

The sum of the quantities subscribed by all users sharing the cargo must be equal to the total amount unloaded.

6.4 Terminal pricing schedules

6.4.1 Definition of the tariff terms

The applicable tariff terms for the ATTM6 period are as follows:

- TNA: number of berthing operations term, paid for each unloading subscribed, whether several unloadings are subscribed over the year as part of long-term subscriptions, or a short-term unloading in *first come, first served*;
- TQD: quantity unloaded term, applied to the quantities subscribed to be unloaded in the terminal, expressed in €/MWh;
- TN: term for gas in kind, intended to cover the LNG terminal's gas consumption, in percentage of gas unloaded;
- TFR: fixed reloading term, applied to each cargo loaded at the LNG terminal, expressed in € per loading operation;
- TQR: quantity reloaded term, applied to quantities of LNG loaded, expressed in €/MWh;
- TB: optional flat send-out term, applied to the amount subscribed as a flat send-out option, expressed in €/MWh;
- TQS: optional quantity stored term, applied to the quantity of storage subscribed, in €/MWh/month.

6.4.2 Forecast revenue to be collected by the tariff of use of regulated LNG terminals

The tariffs and its forecasted annual evolution are determined, based on assumptions of the level of capacity subscriptions, so as to cover the allowed income of each terminal.

Current €M	2021	2022	2023	2024
Montoir	80.7	66.3	74.9	74.8
Fos Tonkin	17.8	16.4	16.6	16.6
Fos Cavaou	123.8	123.8	124.9	125.2

6.4.3 Montoir's tariff as at 1 April 2021

- Terms applicable to unloading operations

TNA	€90,000/berthing operation
TQD	For the basic service: €0.514/MWh For the spot service: €0.386/MWh For the quarterly reservation: €0.614/MWh
TN	0.3% MWh

- Terms applicable to reloading operations

TNA	€90,000/berthing operation
TFR	€60,000/loading operation
TQR	€0.32/MWh

- Terms applicable to ancillary services

TB	€0.07/MWh
TQS	€1/MWh/month

6.4.4 Fos Tonkin's tariff as at 1 April 2021

- Terms applicable to unloading operations

TNA	€75,000/berthing operation
TQD	For the basic service: €0.763/MWh For the spot service: €0.572/MWh For the quarterly reservation: €0.863/MWh
TN	0.5% MWh

- Terms applicable to reloading operations

TNA	€75,000/berthing operation
TFR	€40,000/loading operation
TQR	€0.32/MWh

- Terms applicable to ancillary services

TB	€0.07/MWh
TQS	€1/MWh/month

6.4.5 Fos Cavaou's tariff as at 1 April 2021

- Terms applicable to unloading operations

TNA	€100,000/berthing operation
TQD	For the basic service: €1.290/MWh For the spot service: €0.968/MWh

	For the quarterly reservation: €1.390/MWh
TN	0.2% MWh

- Terms applicable to reloading operations

TNA	€100,000/berthing operation
TFR	€120,000/loading operation
TQR	€0.32/MWh

- Terms applicable to ancillary services

TB	€0.07/MWh
TQS	€1/MWh/month

DECISION

CRE sets the tariff for the use of Elengy regulated LNG terminals as of 1 April 2021, according to the methodology and parameters set out in this deliberation.

CRE sets, in particular:

- the principle of non-regulation of the small-scale LNG vessel loading service (part 2)
- the principles of cost allocation between regulated and unregulated activities (part 2);
- the tariff regulation framework and incentive regulation parameters applicable to Elengy for approximately 4 years (part 3);
- the trajectory of the operating costs, the CMPC and the forecast tariff changes (part 4);
- the structure of the tariff and the services offered (part 5);
- the pricing terms applicable from 1 April 2021 (part 6).

This deliberation will be published on CRE's website and forwarded:

- for opinion to the French Higher Energy Council;
- to the Minister of Ecological Transition, the Minister of Economy, Finance and Recovery and the Minister of the Sea.

Deliberated in Paris, on 03 December 2020.

For the Commission de régulation de l'énergie (French Energy Regulatory Commission)

Chairman,

Jean-François Carenco

APPENDIX 1: SUMMARY TABLE OF THE PRICE SCHEDULE

1. Montoir's tariff as at 1 April 2021

- Terms applicable to unloading operations

TNA	€90,000/berthing operation
TQD	For the basic service: €0.514/MWh For the spot service: €0.386/MWh For the quarterly reservation: €0.614/MWh
TN	0.3% MWh

- Terms applicable to reloading operations

TNA	€90,000/berthing operation
TFR	€60,000/loading operation
TQR	€0.32/MWh

- Terms applicable to ancillary services

TB	€0.07/MWh
TQS	€1/MWh/month

2. Fos Tonkin's tariff as at 1 April 2021

- Terms applicable to unloading operations

TNA	€75,000/berthing operation
TQD	For the basic service: €0.763/MWh For the spot service: €0.572/MWh For the quarterly reservation: €0.863/MWh
TN	0.5% MWh

- Terms applicable to reloading operations

TNA	€75,000/berthing operation
TFR	€40,000/loading operation
TQR	€0.32/MWh

- Terms applicable to ancillary services

TB	€0.07/MWh
TQS	€1/MWh/month

3. Fos Cavaou's tariff as at 1 April 2021

- Terms applicable to unloading operations

TNA	€100,000/berthing operation
TQD	For the basic service: €1.290/MWh For the spot service: €0.968/MWh For the quarterly reservation: €1.390/MWh
TN	0.2 % MWh

- Terms applicable to reloading operations

TNA	€100,000/berthing operation
TFR	€120,000/loading operation
TQR	€0.32/MWh

- Terms applicable to ancillary services

TB	€0.07/MWh
TQS	€1/MWh/month

APPENDIX 2: INDICATORS FOR MONITORING QUALITY OF SERVICE

In application of the principles defined in the "Regulatory Framework" section of this deliberation, a mechanism for monitoring the quality of service is put in place for terminal maintenance and the environment. This monitoring consists of indicators transmitted by the operators to CRE and made available on their website for terminal users.

The following indicators are monitored per terminal without a financial incentive:

- annual reduction rate of subscribed unloading capacity;
- annual reduction rate of storage capacity;
- daily reduction rate of regasification capacity;
- compliance with the annual maintenance programme;
- monitoring of the provision of information in the event of technical incidents that may lead to a reduction of the capacity held by the users of the LNG terminals;
- environmental indicators;
  - monthly emissions of greenhouse gas related to the volume of gas unloaded;
  - methane leaks (including diffuse leakages, venting and accidents/incidents) related to the volume of gas unloaded.

The quality of service regulation system may change during the ATTM6 tariff period. It may be subject to any audit that CRE may consider relevant.

1. Maintenance quality of service monitoring indicators

a. Annual reduction rate of subscribed unloading capacity

Metric name	Metric calculation	Frequency of reporting to CRE and publication	Implementation date
Reduction of subscribed unloading capacity	**Firm annual unloading capacity made available/firm annual subscribed unloading capacity** (one value monitored per terminal)	Annual	1 April 2021

b. Annual reduction rate of storage capacity

Metric name	Metric calculation	Frequency of reporting to CRE and publication	Implementation date
Reduction of subscribed storage capacity	**Annual storage capacity made available/annual technical storage capacity** (one value monitored per terminal)	Annual	1 April 2021

c. Daily reduction rate of regasification capacity

Metric name	Metric calculation	Frequency of reporting to CRE and publication	Implementation date
Reduction of regasification capacity	Daily regasification capacity made available/technical daily regasification capacity (one value monitored per terminal)	Calculation: daily Reporting to CRE: Annual	1 April 2021

d. Compliance with the annual maintenance programme

Metric name	Metric calculation	Frequency of reporting to CRE and publication	Implementation date
Compliance with the annual maintenance programme	Variation (in percentage) of capacity restrictions published in the year N maintenance programme published at the end of year N-1 and in the capacity restrictions actually applied in N (one value monitored per terminal)	Annual	1 April 2021

e. Monitoring of the provision of information in the event of technical incidents that may lead to a reduction of the capacity held by the users of the LNG terminals

Metric name	Metric calculation	Frequency of reporting to CRE and publication	Implementation date
Monitoring of the provision of information in the event of technical incidents	For each incident: deadline by which information is made available after the occurrence of the incident (one value monitored per terminal)	Annual (list of incidents and deadline for each)	1 April 2021

2. Environment quality of service monitoring indicators

Metric name	Metric calculation	Frequency of reporting to CRE and publication	Implementation date
Emissions of greenhouse gas related to the volume of gas unloaded	**Monthly emissions of greenhouse gases / Monthly volume of gas unloaded** (one value monitored per terminal)	Annual	1 April 2021
Methane emissions in relation to the volume of gas unloaded	**Monthly methane emissions/Monthly volume of gas unloaded** (one value monitored per terminal)		1 April 2021

APPENDIX 3: REFERENCES FOR THE BIANNUAL TARIFF UPDATE

1) Update of capital expenditures

For the years 2021 to 2024, the reference capital expenditures taken into account for the update of the mid-period price schedule are those defined in the following table:

Forecast NCC, in current €m	2021	2022	2023	2024
Montoir	37.2	34.1	34.4	34.8
Fos Tonkin	1.9	3.1	3.5	4.0
Fos Cavaou	82.8	82.2	82.1	82.3

2) Update of net operating expenses (excluding energy costs and decommissioning provisions)

For the years 2021 to 2024, the reference net operating expenses (excluding energy costs and decommissioning provisions) taken into account are those defined in the following table:

Forecast NOE, in current €m	2021	2022	2023	2024
Montoir	37.9	37.9	38.3	39.0
Fos Tonkin	12.6	13.1	12.9	13.1
Fos Cavaou	38.7	38.2	37.8	38.4

For the years 2023 and 2024, the amount taken into account for the annual update of the mid-period tariff is equal to the reference value for year N:

- divided by forecast inflation between 2019 and year *N*;

	2020	2021	2022	2023	2024
Forecast inflation between 2019 and year *N*	0.20 %	0.80 %	1.81 %	3.03 %	4.58 %

- multiplied by realised inflation between 2019 and 2021. Realised inflation is defined as the change in the average value of the consumer price index excluding tobacco, as calculated by INSEE for all French households (see INSEE 1763852), recorded in the calendar year 2021, compared to the average value of the same index observed in the calendar year 2019;
- multiplied by the realised inflation between 2021 and 2022, or if not available, its best estimate, defined as the change to the average value of the consumer price index excluding tobacco, as calculated by INSEE for all French households (see INSEE 1763852);
- multiplied by the forecast inflation for the year 2023, taken into account in the draft budget bill for the year 2023;
- multiplied, for the year 2024, by the IMF's forecast inflation for the year 2024.

3) Annual difference between projected income and target allowed revenue

A smoothing system taking into account the annual difference between projected income and the target allowed revenue, whose discounted value at the risk-free rate of 1.7 % is zero over the ATTM6 tariff period, is added to the operator's allowed revenue based on the following trajectory:

Annual difference, in current €m	2021	2022	2023	2024
Montoir	5.6	-6.8	1.1	-0.1
Fos Tonkin	2.7	-0.6	-0.8	-1.4
Fos Cavaou	-0.6	-0.3	0.5	0.4

4) Calculation and reconciliation of the CRCP balance

The total balance of the CRCP is equal to the amount to be paid or deducted to/from the CRCP for the past year and the previous year, to which is added the balance of the CRCP not reconciled over previous years.

The amount to be paid or deducted to/from the CRCP is calculated by CRE, for each year that has passed, based on the difference, for each item concerned, between the actual amounts and the reference amounts defined below. All or part of the difference is paid to the CRCP, the share is determined according to the coverage rate specified by this deliberation.

Montoir, in current €m	Rate	2021	2022	2023	2024
Incomes from additional unloading capacity subscriptions and additional services offered by operators (quarterly capacity reserve, pooling, flat send-out option, contractual storage space,etc.).	75%	80.7	66.3	74.9	74.8
Income related to additional subscriptions for the vessel reloading service	75%	0	0	0	0
Income related to the LNG exchange point access service	50 %	0	0	0	0
Costs and income associated with unregulated services	100%	*[confidential]*			
'Infrastructure' normative capital costs	100 %	36.6	33.4	33.5	33.9
Engine power expenses and variation between income and expenses related to CO_2 quotas	100 %	-	-	5.5	5.4
	80 %	4.4	5.5	Updated mid-period tariff in accordance with 3.2.2	
Bonuses and penalties resulting from incentive regulatory mechanisms	100 %	0.0	0.0	0.0	0.0
Maintenance expenses	100% of unused expenses at the end of the period	4.1	4.5	4.7	4.9

Fos Tonkin, in current €m	Rate	2021	2022	2023	2024
Revenue from additional unloading capacity subscriptions and additional services offered by operators (quarterly capacity reserve, pooling, flat send-out option, contractual storage space,etc.).	75%	17.8	16.4	16.6	16.6
Income related to additional subscriptions for the vessel reloading service	75%	0	0	0	0
Income related to the LNG exchange point access service	50 %	0	0	0	0
Costs and income associated with unregulated services	100%	*[confidential]*			
'Infrastructure' normative capital costs	100 %	1.8	3.1	3.5	3.9
Engine power expenses and variation between income and expenses related to CO_2 quotas	100 %	-	-	1.6	1.6
	80 %	1.3	1.5	Updated mid-period tariff in accordance with 3.2.2	
Bonuses and penalties resulting from incentive regulatory mechanisms	100 %	0.0	0.0	0.0	0.0

Fos Cavaou, in current €m	Rate	2021	2022	2023	2024
Revenue from additional unloading capacity subscriptions and additional services offered by operators (quarterly capacity reserve, pooling, flat send-out option, contractual storage space, emission flexibility in Fos-Cavaou, etc.).	75%	123.8	123.8	124.9	125.2
Income related to additional subscriptions for the vessel reloading service	75%	0	0	0	0
Income related to the LNG exchange point access service	50 %	0	0	0	0
Costs and income associated with unregulated services	100%	*[confidential]*			
'Infrastructure' normative capital costs	100 %	81.2	80.2	79.6	79.8
Engine power expenses energy and variation between income and expenses related to CO_2 quotas	100 %	-	-	5.4	5.0
	80 %	3.8	4.6	Updated mid-period tariff in accordance with 3.2.2	
Bonuses and penalties resulting from incentive regulatory mechanisms	100 %	0.0	0.0	0.0	0.0
Biopolymer programme	100% of unused expenses at the end of the period	*[confidential]*			

Head office in current €m	Rate	2021	2022	2023	2024
R&D expenses	100% of unused expenses at the end of the period	0.8	0.8	0.8	0.8
Reference for the calculation of "non-infrastructure" capital expenses differences due to inflation	100 %	2.2	2.8	3.4	3.4

Furthermore, with regard to net operating expenses, for the years 2021 to 2024, the amount taken into account for the calculation of the balance of the CRCP takes into account the difference between forecast inflation and realised inflation.

This amount is equal to the reference value for year *N*:

- divided by forecast inflation between 2019 and year *N*;

	2020	2021	2022	2023	2024
Forecast inflation between 2019 and year *N*	0.20 %	0.80 %	1.81 %	3.03 %	4.58 %

- multiplied by realised inflation between 2019 and year *N*. Realised inflation is defined as the change to the average value of the consumer price index excluding tobacco, as calculated by INSEE for all French households (see INSEE 1763852), recorded in the calendar year *N*, compared to the average value of the same index observed in the calendar year 2019.