



CRE consultation on tariff regulation applicable to infrastructure operators in France



EFET response – 3 April 2018

The European Federation of Energy Traders (EFET) thanks CRE for the opportunity to present its view on the existing and possible evolutions of the tariff regulation for infrastructure operators in France.

Question 1: Do you share the generally positive assessment of the tariff framework implemented by CRE over the last 10 years?

Yes, we share the generally positive assessment of the tariff framework over the last 10 years. EFET nonetheless notes that some of the tariffs have seen an important increase over the 2018-2019 period (up to 40%). These increases are not easily predictable for market participants and end up being borne by end-consumers.

In the assessment made by CRE of the past 10 years, we read that some of the drivers behind the increased costs of GRTGaz and Terega are linked to the process of unbundling from their respective mother companies, and to the implementation of the EU Network Code. While CRE does not provide any evidence of these correlations, one would expect rather the opposite outcome as both processes aimed, inter alia, at improving the functioning of the market and the efficiency of its underlying operations.

Question 2: Do you share the major issues identified by CRE for the next wave of tariffs?

EFET generally agrees with the major issues identified by CRE for the next wave of tariffs.

As a rather urgent matter to tackle, we would make like to attract CRE's attention to a point in relation to gas tariffs at interconnector points: in the light of some traditional

sources depleting (e.g. Groningen), one major issue going forward will be the increased importance of ensuring cross-border trade of gas is not distorted. When devising any future methodology, with security of supply and the desire to provide a competitive and transparent wholesale market in mind, the regulator should ensure the new methodology does not result in any unjustified distortions on tariffs at these points. For example, we understand that the transportation tariffs are currently calculated using a cost allocation methodology that considers distance as a driver to allocate costs at exit points. Distance is, however, calculated differently for exit points towards neighbouring systems (so called “cross-border exit points”) and for exit points towards the French domestic market (so called “domestic exit points”). It is important to highlight that gas transiting France towards neighbouring markets may be coming from any of the entry points in the system like Obergailbach, Taisnieres, Dunkirk, Pirineos etc. It is wrong, arbitrary and unrealistic to assume that cross-border exit flows only enter the French system from Dunkirk.

This element is crucial as it leads to very high distances then used as a driver to allocate costs to such cross-border exit points, thus directly affecting their (high) tariffs.

On the contrary, when it comes to domestic exit points, it seems that the CRE methodology is different as it leads to considerably lower distances.

The consequence of such a differentiation in the methodologies used to calculate distances leads to negative implications for cross-border trade with neighbouring markets (cross-border exit tariffs at Oltingue and Pirineos are respectively 4 and 6 times higher than the tariffs for domestic exit points).

The adoption of a “standard” Capacity Weighted Distance (CWD) method, as foreseen in the European Network Code on Tariffs (Commission Regulation (EU) 2017/460), would remove any such distortion and imply that all exits points in the network are treated equally, since each specific exit tariff would depend on the capacity weighted distance from all entry points, not on any point-to-point approach.

In addition, and in a longer-term perspective, we see three additional areas for CRE to tackle:

- data transparency on the TSO and DSO side, with a particular focus on data quality with regard to consumption and injection data; this exercise should be performed in conjunction with market participants to ensure we are able to use and integrate the data in our own systems
- strict unbundling in the development of innovative technologies and services, making sure that TSOs and DSOs are incentivised to procure services from the market rather than investing where the market could;
- improve the coupling of power and gas sectors through integrated planning of network development in order to optimise the investments needed to support the energy transition.

Question 3: *Do you consider like CRE that a duration of the tariff period of 4 years is adapted for all tariffs?*

We support the four-year tariff period as it gives proper visibility for the market.

Our biggest concern in this area is that the transportation tariffs will not be finalised and published before the auctions for the next gas year 2019-2020 (as provided by NC TAR). As we noted in our letter to you dated 20th February 2019, it is of particular concern considering that, if the new tariff period were to commence in April 2020, it exposes the French gas system to higher regulatory uncertainty with respect to ATRT6 tariffs, which may become subject to legal challenges as the general reliability of French gas transmission tariffs would diminish. Transactions have been concluded on the basis of the ATRT6 tariffs and ignoring these open interests in the market would threaten them and the confidence that the market has in the – so far – reliable regulatory framework in France.

Moreover, we noticed that the timeframe provided by this consultation document does not seem to meet the deadline set by Article 27, §5 of the NC TAR which states that “the procedure consisting of the final consultation on the reference price methodology [...], the decision by the national regulatory authority [...], the calculation of tariffs on the basis of this decision, and the publication of the tariffs [...] shall be concluded no later than 31 May 2019”.

Question 4: *Are you in favour of operators publishing indicative tariff forecasts beyond the current tariff period and over 4 rolling years?*

Yes, anything that can increase visibility of tariffs for market participants is beneficial. Tariff forecasts could partially counter the uncertainty currently inherent to each start of a new tariff period. However, whether or not the indicative tariffs are accurate will determine how useful they are for market participants. Therefore, TSOs should be incentivised to provide the most accurate data possible. Another solution to increase the visibility of market participants would be for the TSOs to publish firm tariffs for the new period more in advance of its start, e.g. in June of the previous year.

Question 5: *Are you in favour of the functioning principles of CRCP envisaged by CRE?*

Yes, in particular we support the proposals to extend the capped clearance rate of +/- 2% to all tariffs.

Question 6: *Are you in favour of the principle envisaged by CRE for the evolution of the calculation of the CRCP in order to coordinate electricity transmission and distribution tariffs?*

We generally support the objective to coordinate electricity transmission and distribution tariffs. Electricity tariffs not being paid directly by market participants but by the consumer, and adaptation of the time at which they will be modified as a lesser impact on the market than on the gas side. However and as usual, this

modification of the electricity tariffs methodology should be done in a transparent way.

Question 7: Are you in favour of renewing the current incentive mechanism for operating charges for future tariffs?

Yes, we are broadly happy with the current incentive mechanisms and support carrying it over in the next years. However, the fact that operators' observed costs during the previous tariff periods were always lower than their forecast costs (allowing them to keep the difference) suggests CRE should challenge operators' projected costs more.

See below for info:

Tableau 2 - Historique des écarts entre réalisé et prévisionnel des principaux opérateurs

Opérateurs	Écarts entre réalisé et prévisionnel en % des CNE incitées prévisionnelles cumulées sur 2009-2017
GRDF	+ 0,5 % (- 1,5 % sur 2012-2017)
Enedis	- 2,2 %
RTE	- 4,4 %
GRTgaz	- 2,4 %
Teréga Transport	- 1,5 %

Question 8: Are you in favour of renewing the current incentive mechanism for infrastructure operators to control their capital costs and their operating expenses for the "off-grid" investment scope? If so, do you think that network management or data provision information systems should be excluded from the incentivised "off-grid" perimeter and be subject to "classic" regulation with an automatic inclusion in the BAR of these investments?

Yes, we are in favour of renewing the current Incentives mechanisms for infrastructure operators. Generally speaking, network management or data provision information systems appear to best sit under the definition of OPEX rather than CAPEX, which is typically depreciated over a relatively long period of time. However, this is only an initial view in the absence of any detailed information, and the most important thing is for the regulator to have a robust definition of OPEX and CAPEX and to apply it consistently across all operators.

Question 9: Are you in favour of maintaining the general principles of operation of the CRCP and the risk sharing between network operators and users?

Yes.

Question 10: Are you in favour of maintaining compensation to the CRCP of network operators' losses and profits due to changes in consumption / subscriptions?

Yes.

Question 11: *Are you in favour of maintaining the network capital costs of the CRCP so as not to send an incentive to reduce the volume of investment in the short term?*

Question 12: *Are you in favour of maintaining the energy / loss costs partially in the CRCP in order to encourage network operators to reduce them?*

Question 13: *What do you think of the scope of the costs taken into account at the CRCP?*

We agree with CRE's approach in these areas.

Question 14: *Are you in favour of maintaining the principles that govern the current regulatory framework concerning investment expenditures of the various regulated infrastructure operators?*

We support maintaining the current principles. We would welcome additional transparency from the system operators on the methodology they used to propose a new investment. This methodology should be made public in order to improve transparency towards the public and the confidence of the market in new investment decisions.

Question 15: *Do you share CRE's preliminary view that explicit compensation for depreciated assets that are still in use is undesirable?*

Yes. Depreciated assets have already been fully paid for by the users of the network, so there is no case for users to continue to pay capital charges for these assets. We also note that across Europe, regulated infrastructure tariffs typically do not include explicit remuneration for fully depreciated assets.

Question 16: *Do you share CRE's preliminary view that explicit compensation for investment subsidies is not desirable?*

Yes.

Question 17: *Are you in favour of changes in the methods used to calculate the remuneration of the operators' assets, as envisaged by CRE, and mainly the differentiation of the rates of return on historical assets and new assets?*

Yes. It makes sense for investments to be remunerated according to the financing conditions that were prevailing when the investments were made. Nonetheless, to make sure that this remuneration is transparent and fully understandable, it is important that CRE indicates in their investment approval decisions under which conditions the remuneration may evolve. The parameters governing this evolution should be fixed by the regulator ex-ante.

Question 18: *Do you consider that the principle and the parameters (sharing rate, maximum incentive) of the incentive mechanism for the unit cost of investment introduced by the ATRD 5 and TURPE 5 HTA BT tariff decisions are satisfactory?*

Yes.

Question 19: *Do you have any comments on the current incentive framework and the changes envisaged by CRE for large transport projects?*

This question impacts electricity more than gas as CRE intends to extend the scope of application of incentive regulation to all electricity network projects. We support the reduction of the band of neutrality to 5% of the target budget for projects carried out by the gas and electricity TSOs. The current 10% band is too wide if evidence shows that all final project costs fall within this band. On the electricity side more particularly, the costs of most projects end up on the higher limit of the band of neutrality. A tighter control of the forecast budget seems needed.

The timely delivery of the investment could be an additional element of the incentive framework for electricity infrastructure projects.

Question 20: *Do you have any remarks on the application of the incentive regulation to control the costs of large projects to smaller projects, randomly selected or discretionary?*

No.

Question 21: *What changes in the current incentive framework for interconnection projects seem relevant to you?*

We support the reduction of the band of neutrality from 10% to 5% (see our response to question 19).

It is unclear why the third form of incentive should be used - i.e. financially incentivising TSOs for actual flows realised on interconnectors. While it is vital that the pre-investment assessment by system operators takes account of projected use of the infrastructure to avoid unnecessary projects, realised flows on interconnected will primarily be determined by the price dynamics between market areas which TSOs do not influence. A more logical way to incentivise the TSO would be to base the incentive on the reliability of the transmission network as this is in the hands of the TSO.

Generally, we wonder whether fixed premiums should be maintained for the remuneration of either gas or electricity investments.

Question 22: *Do you support the definition of stranded costs proposed by CRE?*

Question 23: *Are you in favour of the principles that CRE proposes to keep for the treatment of stranded costs and which are already in place in the ATRT?*

Yes.

Question 24: *Do you share the CRE's analysis that only study fees should be covered by the tariff?*

Yes.

Question 25: *For long-cycle investments, are you in favour of CRE's proposal concerning current fixed asset compensation (IEC)?*

We believe that IECs for long-cycle investments should be remunerated at the cost of the pre-tax nominal debt - and not at the RAB rate - as this would be an incentive for the rapid commissioning of the investment projects.

Question 26: *Are you in favour of maintaining the R&D trajectory as currently set? Are you in favour of revising these amounts after two years?*

Question 27: *Do you support the establishment of such a mechanism in the gas sector? Do you have suggestions for changes that would improve the deployment of smart grids by operators?*

Question 28: *Do the changes envisaged by the CRE seem to you relevant to improve operators' transparency on their R & D and innovation projects? Do you have any other suggestions to improve this transparency?*

Question 29: *Are you in favour of the approach envisaged by CRE to incentivise operators to promote innovation by all players?*

First and foremost, we insist on the point that for both gas and electricity TSOs and DSOs, strict unbundling principles must be observed. All activities that are not related to system management should be considered in the competitive domain, and hence the regulator ought to exercise scrutiny as to what should or should not be part of TSOs and DSOs' R&D projects and strategy. The recently approved recast Electricity Directive (part of the Clean Energy Package) reaffirms this principle by making clear that TSOs and DSOs shall not own or operate, e.g. energy storage installations or electrical vehicle charging points. We hope to see similar principles enshrined in upcoming reforms of EU legislation pertaining to gas.

This being said, we agree, broadly speaking, that there should be a mechanism to allow TSOs to recover costs associated for R&D projects, but only as long as these projects are strictly related to the fulfilment of their tasks of system operators and neutral market facilitators. What we observe is that the current policy of allowing a trajectory of R&D costs to be recovered, seemingly in the absence of any pre-defined project, is likely to lead to TSOs consistently spending their entire R&D budgets regardless of the outcome, and possibly in areas that go beyond their mission. An alternative method, that would arguably allow the regulator more scrutiny on R&D projects themselves and their costs, would see a maximum limit for cost recovery but no pre-defined budgets provided to TSOs upfront, but to oblige them to apply to the regulator for specific costs associated with a pre-defined project.

Whichever the form of incentive regulation eventually chosen by CRE, it should make sure that costs are controlled, that R&D projects are strictly limited to the system operators' core activities of transportation and distribution, and that full transparency on technical and financial elements of the projects is made available to the regulator and the market.

Finally, we agree that system operators, as neutral market facilitators, should focus their R&D projects solely on the improvement of network functioning in order to accompany the energy transition. TSOs and DSOs should coordinate closely with the regulator and market participants in open forums in order to ensure that R&D projects correspond to real market needs.

Question 30: *What are, in your opinion, the priority subjects on which operators must be encouraged? Do you share the priority identified by CRE on connection times?*

Question 31: *Are you in favour of the implementation envisaged by the CRE of one or more statistical indicators on the geographical distribution of certain supply quality and service indicators? Do you have any suggestions?*

Question 32: *Are you in favour of the introduction envisaged by CRE of environmental indicators? Do you think they need to be incentivised?*

Question 33: *Do you have any other suggestions or remarks about the tariff regulatory framework?*

In the consultation, most of the discussion on indicators and the associated incentives are focused on the downstream areas such as customer service and the reliability of supply to and consumers. EFET is a wholesale trading organisation, so not well placed to comment on these areas.

This being said, we see important elements for CRE to consider in the following areas:

- On the electricity side:
 - o Availability and quality of TSO and DSO network data
 - o Publication of information on network congestions
- On the gas side:
 - o Availability and quality of TSO and DSO network data
 - o A high level of reliability both in terms of the interconnection points and the wider transmission network. In an era where security of supply is becoming increasingly in focus, any downtime on cross-border points should be reduced to an absolute minimum.
 - o Remove the existing distortions in the calculation of cross-border exit tariffs in the transportation network. The application of the cost allocation methodology (Capacity Weighted Distance) provided as a benchmark by the European Network Code on Tariffs would address and solve the above-mentioned issues.

We also raise CRE's attention to the need for the regulator to monitor natural gas TSOs and DSOs' readiness to get their grids for the integration of renewable gas and "decarbonised" hydrogen.