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# Commission de Régulation de l'Énergie (CRE – France)

## 2010 National Report and Indicators

### English Summary

#### July 2011

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### Major Developments for the regulator in 2010

The year 2010 was marked by the adoption of the new electricity act “NOME” (New Organisation of the Electricity Market; passed on December 7<sup>th</sup>, 2010) which confers new competences on CRE regarding the regulated access to nuclear power generation and modifies CRE's internal organisation. The CRE Board (collège) is now composed of five commissioners appointed for a fulltime term of six years, non renewable and irrevocable.

The activities of the alternative dispute settlement body (CoRDIS) of CRE rose steadily. In 2010 11 decisions were taken and 17 cases were referred to the CoRDIS. The same year its missions have been expanded to disputes related to

- access to carbon transport installations and carbon storage sites,
- abuse of and non compliance with the right of the regulated access to nuclear power generation.

Despite the new competences assigned to CRE by the law NOME, the budget allocated and the staff limit set by the ministry has not been increased accordingly. This imbalance will be even more significant after the transposition of the 3<sup>rd</sup> energy package when further new competences are to be conferred upon CRE.

The ministry and CRE in consultation with the industry have worked on the transposition of the 3<sup>rd</sup> energy package, notably on the provisions regarding the unbundling regime. France has chosen to implement the model ITO as the unbundling regime for electricity and gas TSOs. This will be confirmed in the transposition act “Ordinance codifying the legislative part of the French energy code” that is to be published in May 2011. CRE was also very active in the preparatory phase of the establishment of the Agency for the cooperation of energy regulators (ACER) that will be officially created on March 3<sup>rd</sup>, 2011.

## 1. Main developments in the gas and electricity markets

### 1.1. Wholesale markets

There has been no significant evolution in the concentration of the market, which remains high in France, notably as regards electricity generation.

#### *Electricity*

In its third report on the functioning of the French wholesale markets for electricity and natural gas published in October 2010, CRE concluded that the evolution of day-ahead prices was generally coherent with the supply-demand balance and with the fluctuations of fuel prices.

Following the price peak occurred on January 12<sup>th</sup>, 2010 that required the triggering of a request for quotes procedure (RFQ), CRE conducted an investigation. On this occasion it was revealed that EDF did not systematically offer some load shedding volumes in the bids sent to EPEX Spot. EDF committed to change its practice rapidly. CRE considered that these operational measures will improve the functioning of the wholesale electricity market.

In 2010, the VPP (Virtual Power Plants), an essential element of the French wholesale market, represented 34% of the necessary supply of alternative suppliers to cover the consumption of their clients.

## Gas

During 2010, the increasing activity of shippers has improved significantly competition on the wholesale market.

The day-ahead prices have reached a steady level in the course of 2010. The upward movement of the market price accelerated in spring 2010. This trend observed in the main markets in Europe, reduced the difference between market price and the price for long term contracts indexed to oil, although this difference is still significant.

The consequences of the gas glut caused by an increased gas production, notably due the development of non conventional gas in the United States, the abundance of LNG and the increase of the gas production in Russia, were also visible on the wholesale market in 2010. The lack of correlation between market prices and the gas prices resulting from contracts indexed on petroleum prices has continued due, in particular, to changes in the prices of petroleum products and the euro-dollar parity, and even though the rise in market prices since spring 2010 has reduced the spread. This has created a context that incites suppliers and consumers to purchase supplies on the markets in Europe and France in particular. It was in this context (gas glut) that CRE carried out an audit of GDF SUEZ's procurement formula, the conclusions of which were made public on August 31<sup>st</sup>, 2010.

On the organised markets the volumes treated in spot (intraday, day ahead and week end products) were 4 times higher in 2010 than the year before. This progress is even more significant for volumes treated in futures were activities progressed by 78% compared to 2009.

Similar evolutions have been notified by brokers for the OTC: volumes treated in spot (intraday, day-ahead and week end products) increased by 92% over this period; volumes treated in forwards increased by 44%.

Deliveries resulting from these transactions are made at the Gas Exchange Points (PEG), i.e. at virtual points allowing gas to be exchanged in each tariff zone. The use of the PEG rose rapidly at the beginning of 2010. The net volume of gas deliveries resulting from transactions by players on the wholesale market increased by 22% in comparison to 2009 and 322 TWh of gas were supplied to the PEG.

## *Carbon markets*

The law on the regulation of the financial and banking sector (LRBF) adopted on October 11<sup>th</sup>, 2010 established the principle of broad cooperation between CRE and AMF, i.e. the French regulatory Authority for the Financial Markets, as regards the monitoring of the carbon markets. While AMF is given the responsibility to regulate the carbon market, CRE's mission is extended to include analysis of the consistency between fundamentals of the energy market and the transactions made on the CO<sub>2</sub> market. To institutionalize their cooperation, both regulatory

authorities signed a cooperation agreement on December 10<sup>th</sup>, 2010 stressing the close link between the energy, financial and carbon markets and the complementarity of sector expertise.

## 1.2. European market integration and regional initiatives

### Gas

Within the North West region, three coordinated Open Seasons were organised on the French borders in 2010. In addition to the completion of the Open Season on the French-Belgian border which resulted in the decision to increase firm entry capacity at Taisnières H, a new Open Season was launched on the same border to assess the level of demand of market actors for a new interconnection point to create firm transmission capacity from France to Belgium. During the non-binding phase market actors showed a strong interest for the interconnection project, which was pending on the final investment decision for the Dunkirk LNG terminal. Moreover, at the end of 2010 the first phase of an Open Season was launched for the development of the interconnection capacity between France and Luxembourg. The implementation of the project on the secondary capacity markets in the North West region continued with the submission of a questionnaire to market players on the functioning of secondary markets and on trade barriers.

Within the South region, the second coordinated Open Season launched in May 2010 on the French-Spanish border led to the decision to create 55 GWh/day of additional capacity from Spain to France as of 2015.

### Electricity

Important progress was achieved regarding the regional initiatives in electricity. In the Central West region an interim solution – interim Tight Volume Coupling – was agreed to overcome the compatibility problems identified in 2009 regarding the price market coupling in place in the trilateral coupling and the volume coupling applicable in Germany and on the NordPool Spot power exchange. Thus the most important European spot market (from France to Finland) has been created and 8 countries share a common liquidity of the wholesale market which has radically improved the use of the interconnections.

## 1.3. Retail markets

### Gas

In 2010, the opening-up of the household market to competition experienced only a moderate progression. As of December 31<sup>st</sup>, 2010, alternative suppliers had a global portfolio of 775,000 customers on a total of 10.7 million consumption sites. The rest of the market is shared by incumbents.

The opening-up of the non-household market has progressed moderately but constantly in 2010. A total of 125,000 customers out of 681,000 consumption sites have opted in favour of alternative suppliers as of December 31<sup>st</sup>, 2010. The rest of the market is shared by incumbents.

### Electricity

While during the first semester of 2010 the opening-up of the market showed a strong progression, the last quarters were marked by a decline. As of December 31<sup>st</sup>, 2010, alternative

suppliers had a global portfolio of 1,571,000 household customers, on a total of 30.2 million consumption sites. As regards the non household customers, a total of 362,000 have opted in favour of alternative suppliers as of December 31<sup>st</sup>, 2010. The rest of the household and non-household market is shared by the incumbents.

The provisions concerning the transitional regulated tariff for balancing markets (*Tarif Réglementé Transitoire d'Ajustement au Marché*, TaRTAM) were modified by the new electricity act (NOME). Clients can benefit from the TaRTAM until the entry into force of NOME (and not only until July 2007) provided that they have submitted a request before July 1<sup>st</sup>, 2010.

## 2. Major issues dealt with by the regulator

### 2.1. Public service obligations and Consumer Protection

“Energie-Info” ([www.energie-info.fr](http://www.energie-info.fr)) is a one-stop service provider for electricity and gas offering consumers all the necessary information regarding their rights, the legal and regulatory framework, the available dispute settlement procedures as well as a free tariff calculator allowing customers to compare suppliers’ offers.

In 2010, the “Energie-Info” platform provided an answer to 440,000 consumers, of which 62% being interested in obtaining the contact details of energy suppliers. The internet website was consulted by 560,000 visitors. 2% of all requests (i.e. 10,000) received by “Energie-Info” concerned complaints asking for support.

### 2.2. Infrastructure

In November 2010, CRE published its second report on incentive regulation for the quality of service of the TSOs and DSOs in gas and of the electricity DSO ERDF. It was concluded that the quality of service of the system operators improved gradually or reached a stable satisfactory level in the most important areas for the proper functioning of the market. Some objectives set by the tariffs were met or even exceeded, generating financial bonuses for the operators.

#### *Electricity*

In 2010 the tariffs for the use of public transmission and distribution networks (TURPE 3) have increased as of August 1<sup>st</sup> by 5% for transmission and by 3.4% for distribution. This evolution follows the formula taking into account inflation, plus a 0.4% premium for the transmission network and a 1.3% premium for the distribution network set-up in 2009 for a 4-year period (applicable until 2012).

#### *Gas*

End of 2010, CRE launched an audit of the quality of service of GrDF, GRTgaz and TIGF. The conclusions of the audit will be taken into account in the next update of the incentive mechanism.

In the wake of the 3<sup>rd</sup> energy package, CRE and the two gas TSOs were working on the definition of new principles for the balancing target that will be put in place by GRTgaz by 2013. CRE has approved the proposition of GRTgaz on September 30<sup>th</sup>, 2010 which foresees

- a market based balancing principle

- stronger incentives for shippers to respect the balancing rules
- improved quality and quantity of the information that GRTgaz provides to the shippers
- interventions of GRTgaz on Powernext linked directly to the level of physical tension on the network and concentrated on the within-day market.

In its deliberation, CRE requested GRTgaz to come up with a proposal on the trajectory for implementing the balancing target on June 30<sup>th</sup>, 2011. In parallel TIGF was requested to present a study on its balancing system assessing the adaptations required to comply with the 3<sup>rd</sup> energy package and the draft Framework Guidelines developed by ERGEG.

### 2.3. Security of supply

#### *Electricity*

Compared to the previous year, interior consumption has increased by 5.5% in 2010. The instantaneous consumption record was exceeded in three times in 2010 with its latest record established on December 15<sup>th</sup> at 96,710 MW.

The installed capacity has increased in 2010 by 1,430 MW. However, investments in generation have decreased compared to the previous year. End of 2010, RTE and its British counterpart National Grid have signed an agreement to finance feasibility studies on a new interconnection between France and the UK. The outcome of these studies is expected by the end of 2012.

#### *Gas*

France is one of the principal LNG importers in Europe and covers 28% of its annual gas consumption with LNG (155.6 TWh of LNG imports in 2010). Since 2010, three LNG terminals are operational (Fos Tonkin, Montoir-de-Bretagne, Fos Cavaou). Put progressively into service as of April, Fos Cavaou runs at full capacity since November offering a regasification capacity of 8.25 bcm per year.

The commissioning of Fos Cavaou led to a decrease of the gas flows from GRTgaz North to GRTgaz South and thus eased the physical congestion at the link between the two balancing zones. This trend was also confirmed on the contractual side: the last sale of annual capacity as of April 1<sup>st</sup>, 2011 that was organised in summer 2010, resulted in 14 GWh/day of unsold capacities out of 46 GW/day offered to the market.

Despite the improvements achieved by merging on January 1<sup>st</sup>, 2009 three balancing zones (GRTgaz East, North and West) and the lower level of congestion at the link between GRTgaz North and South, liquidity on the PEG South remains lower than on the PEG North and market players are still calling for further work on the possibility to merge the existing balancing zones.

A fourth LNG terminal project to be built in Dunkirk was under consideration. The exemption decision was delivered by the Government in February 2010, following CRE's deliberation of July 23<sup>rd</sup>, 2009 and the opinion of the European Commission of January 20<sup>th</sup>, 2010.

The commitment of GDF SUEZ to limit its share of import capacities in France to 50% allowed alternative suppliers to reserve entry capacities in France for significant volumes as of October 2010.

The different Open Season procedures conducted in 2010 on the French borders will improve the gas security of supply (cf. point 1.2).

## 2.4. Regulation / unbundling

In the transposition of the 3<sup>rd</sup> energy package provisions the ITO model will be the unbundling model chosen by France.

### *Electricity*

In 2010 TSOs have pursued their efforts as regards their operational independence from the parent companies. Although the legal framework regarding the unbundling rules, i.e. the independence of the TSOs and the competences of CRE in this regard, remains unchanged, the TSOs already started to prepare for the future changes in the national legal framework due to the transposition of the 3<sup>rd</sup> energy package.

DSOs strived to improve their independence vis-à-vis their parent companies but progress has still to be made.

The 3<sup>rd</sup> energy package provision will reinforce the unbundling provisions for the system operators of the transmission and distribution networks.

### *Gas*

In January 2011, CRE published its 6<sup>th</sup> report on the adherence to codes of good conduct and system operator independence. The report concludes that all TSOs and DSOs concerned by the legal obligation to elaborate such a code have performed satisfactorily in 2010. Nevertheless, CRE recommended to operators to improve their communication and provide more training for their staff to increase their awareness of these rules.

As regards supply activities in gas, CRE has approved in its deliberation of February 11<sup>th</sup>, 2010, the principles for account unbundling applied by GDF SUEZ for its supply activity to eligible and ineligible customers but some adjustments are still necessary. CRE and also the French competition authority consider that GDF SUEZ has to improve transparency as regards the unbundling principle applied.