Commission de Régulation de l'Energie (CRE – France)

2011 National Report and Indicators

English Summary

July 2012

Major Developments for the regulator in 2011

The year 2011 was marked by the implementation of the new electricity act "NOME" (New Organisation of the Electricity Market, passed on December 7th, 2010) and the adoption in May of the "Ordinance codifying the legislative part of the French energy code". Both texts marked the end of the transposition process of the Third energy package and significantly increased CRE's duties and powers, notably in the following fields of activity:

- ***Tariffs***: CRE sets the tariffs for the use of public networks. In the past, CRE submitted a proposal to the Minister of Energy, who could object to the proposal. Now, the Minister has only the right to ask for a new deliberation on tariffs within two months after the submission of the proposal.
- ***Investment***: CRE delivers an opinion on the ten-year investment plans elaborated by the transmission system operators' (TSOs). In this regard, CRE's competences on dispute settlement and its power to sanction operators were strengthened.
- ***Certification***: CRE has the power to certify TSOs. The certification process was one of the main issues in 2011.
- ***ARENH (regulated access to nuclear power generation of the incumbent)***: CRE proposes to the Minister of Energy the conditions for the ARENH sales to alternative suppliers and sets the volume of electricity sold under these rules.

The CRE Board was modified by the NOME act. The Board is now composed of five members: the President of the Board and two members are appointed for six and two years respectively, by decree of the President of the Republic after consulting the competent committees of the Parliament. The other two members are appointed for a four-year term respectively by the President of the National Assembly and the President of the Senate. The new Board members were appointed in February 2011.

In 2011, CRE adopted 206 deliberations, realised 83 hearings and undertook 9 public consultations. In addition, the Standing Committee for Dispute Settlement and Sanctions (CoRDiS) of CRE dealt with 272 referrals and took 206 decisions. This represents a significant increase of its activities compared to the previous year mainly due to the entry into force of the decree n°2010-1510 suspending the obligation to purchase electricity produced by certain photovoltaic power plants.

As in the past, CRE was actively involved in the activities of the Council of European Energy Regulators (CEER) and of the Agency for the Cooperation of Energy Regulators (ACER) which became formally operational on March 3rd, 2011.

Despite the growing responsibilities assigned to CRE, its resources, set by the Ministry, have not been increased accordingly since 2008. CRE's staff limit is still set at 131 full-time equivalents (FTE).

1. Main developments in the electricity market

1.1. Network regulation

Certification of RTE's independence

After examining the results of its investigation and taking into account the opinion of the European Commission, CRE considered in its deliberation of January 26th, 2012 that the measures taken by RTE as well as its commitment to implement further obligations in the near future, were satisfactory enough to guarantee its independence *vis-à-vis* the vertically integrated undertaking. Thus, RTE is certified as Independent Transmission System Operator (ITO).

Tariffs

The 3rd tariff for the use of the public electricity transmission grids (TURPE 3) came into force on August, 1st 2009 following the Minister's decision of June 5th, 2009. The TURPE will be revised in 2013.

Coordination with European energy regulators through ACER

CRE contributed to the joint work of European energy regulators towards the achievement of a fully integrated electricity market by 2014. CRE was actively involved in the elaboration of the framework guideline on capacity allocation and congestion management, the one on grid connection and the one on system operation. These framework guidelines were published by ACER in 2011. The drafting of the corresponding network codes by ENTSO-E is still on-going. CRE is also co-drafting the framework guideline on electricity balancing, which is expected to be published in September 2012.

Regional integration

The Electricity Regional Initiatives (ERI) are now under the umbrella of ACER. CRE participates in 4 out of the 7 ERI and dedicates important resources to the promotion of regional integration.

In 2011, CRE played a leading role in the harmonisation process of capacity allocation rules on the interconnection points and supported the geographical extension of the CASC platform to Switzerland, the Central-West and the Central-South regions. The harmonised rules were approved by CRE on November 17th, 2011. CRE contributed in particular to the elaboration of a flow-based pilot project in the Central-West region whose implementation is expected to start by mid-2013.

Finally, CRE participated in the work conducted by the European Commission on market coupling. In its public consultation launched in November 2011, the Commission presented four governance options for a European market coupling.

1.2. Promoting competition

ARENH and regulated tariffs

In order to improve competition, the NOME act conferred to CRE the competence to regulate the access to nuclear power generation. On a transitional basis, alternative suppliers have thus access to a limited volume of generation under the same conditions as the incumbent supplier EDF. ARENH tariffs were fixed by the French government at 40€/MWh for 2011 and 42€/MWh for 2012. CRE gave a cautious opinion on these tariffs. As of 2016 these tariffs will be fixed by the regulator.

Pursuant to the NOME act, regulated tariffs for small customers are maintained but the ones for large customers will be abolished by December 31st, 2015 at the latest.

CRE observed in its deliberation of June 28th, 2011 that alternative suppliers, who buy most of their electricity through ARENH, are still not able to compete with regulated tariffs.

Wholesale Market

In its wholesale markets monitoring report published in November 2011, CRE analysed the formation and relevance of *day-ahead prices* (EPEX Spot Auction). French spot prices evolved in accordance with the fundamentals of the electricity market. The decrease of trading volumes by 7% observed in 2010 was mainly due to a better availability of generation installations, including nuclear power plants, hereby contributing to the reduction of market volatility, notably on the futures market.

Retail Market

In 2011, the opening-up to competition of the household market has experienced a faster pace than in 2010. The number of household customers with contracts at market prices increased by 16% (+ 253 000) in comparison to 13% in 2010 (186 000) representing 1 point increase in volume. On December 31st, 2011, 1,838,000 sites, out of a total 30.6 million, have electricity contracts based on market prices. 1,826,000 are with an alternative supplier.

Nevertheless, the opening-up of the non-household market segment declined further: the number of non-household customers with contracts at market prices decreased by 5%. On December 31st, 2011, 693,000 sites, out of a total 4.9 million, have electricity contracts based on market prices. 368,000 sites are with an alternative supplier.

In terms of volume, due to the impact of ARENH, the picture is different. The market share of the incumbent suppliers is lower, whether the one of the alternative suppliers increased by 5 points between 2010 and 2011. For large industrial customers, the impact of ARENH is the largest with a 21% increase (11 TWh) in the volume supplied by alternative suppliers between 2010 and 2011.

1.3. Consumer protection

In 2011, the information website on energy issues "energie-info.fr " jointly managed by CRE and the energy Ombudsman (MNE) was consulted by more than 410,000 consumers and registered 571,000 visits.

Consumer Code

The NOME act amended several provisions of the Consumer Code. According to these new rules, suppliers must indicate in their offers the terms of reimbursement in case of miscalculation or delay in billing; the dispute settlement mechanisms in place and the link to the website delivering information on energy prices. In addition, consumers must now receive the closing invoice within four weeks after the termination of the contract.

Pursuant to the NOME act, CRE monitors retail markets ensuring in particular that offers are developed in a coherent way. In this regard, CRE has the access right to all contracts signed between suppliers and final customers.

Cost assessment of public service obligations

In its annual evaluation of public service costs for electricity, CRE assessed the costs resulting from the promotion of renewable energy in 2010. For 2012, the costs are estimated at 2,220 million euros. This represents more than three times the costs in 2010. These costs should be covered through the "public service contribution for electricity" (CSPE).

1.4. Security of supply

Generation

In 2011, the total installed capacity in France was of 126,46 GW (6,64 GW for wind energy and 2,23 GW for photovoltaic). 541,9 TWh were produced in France in 2011 (-1.5% compared to 2010).

Investment

The annual level of investment in infrastructure is expected to reach 1,193 million euros for 2009-2012. This represents an increase of 60% compared to the previous period (2006-2008). Regarding production, the installed capacity has increased in 2011 by almost 2,960 MW.

2. Main developments in the gas market

2.1. Network regulation

Certification of TSOs' independence

After examining the results of its investigation and taking into account the opinion of the European Commission, CRE considered in its deliberations of January 26th, 2012 that the measures taken by the gas TSOs – GRTgaz and TIGF – as well as their commitment to implement other obligations in the near future, were satisfactory enough to guarantee their independence *vis-à-vis* the vertically integrated undertaking. Thus, both TSOs were certified as ITO.

Balancing rules

CRE promoted a coherent evolution of balancing rules for TIGF and GRTgaz networks in order to anticipate the entry into force of the European network code on balancing (expected in 2013).

Market coupling

In order to improve the functioning of the gas market in GRTgaz's Southern zone, CRE approved on April 19th, 2011 GRTgaz's proposition to test market coupling between the Northern and Southern areas of its network.

Tariffs

CRE is currently revising the tariffs for the use of the natural gas transmission networks (ATRT 4) which came into force on January 1st, 2009 and the tariff for the use of LNG terminals (ATTM) which came into force on January 1st, 2010 in order to have them adopted in 2013.

2.2. Promoting competition

Wholesale Market

Day-ahead prices rose by 31% in 2011 and reached an average of 22.89€/MWh in comparison with 17.52€/MWh in 2010. The gap between gas prices (on day-ahead products) and those of Brent was relatively stable over the first quarter of 2011 before being sharply reduced. Following the nuclear accident in Fukushima in early March, gas prices rose. The gap increased further during the rest of the year due to the political evolutions in North Africa and the Middle East.

The volume of products traded on the spot exchange doubled in 2011 compared to the previous year. Volumes of spot products on the OTC market grew by 34% in 2011 while future products have registered an increase of 74% compared to 2010.

The volume of gas deliveries at the Gas Exchange Points (PEG) on the wholesale market accounted for 467 TWh in 2011. This represents an increase of 39% compared to the previous year.

Retail Market

In 2011, the opening-up to competition of the household market resumed after a moderate pace in 2010. There are 1,459,000 household customers, out of 10.7 million with contracts at market prices, of which

67% (980 000 sites) are with an alternative supplier. This represents a 15% increase, i.e. a 2 point increase in volume, since 2010.

The opening-up of non-household market increased slowly, similar to the evolution registered in 2010. There are 287,000 non-household customers out of 677,000 with contracts at market prices. Of these, 48% are with an alternative supplier (138,000 sites) representing 36% of the national gas consumption.

2.3. Consumer protection

In 2011, the information website on energy issues “energie-info.fr” jointly managed by CRE and the energy Ombudsman (MNE) was consulted by more than 410,000 consumers and registered 571,000 visits.

Consumer Code

The new elements introduced by the NOME act and modifying the Consumer Code are also relevant for gas. According to these new rules, suppliers must indicate in their offers the terms of reimbursement in case of miscalculation or delay in billing; the dispute settlement mechanisms in place and the link to the website delivering information on energy prices. In addition, consumers must now receive the closing invoice within four weeks after the termination of the contract.

2.4. Security of supply

Supply

Gas supply in France is mainly based on imports that covered 98.5% of the French gas consumption, representing 478 TWh in 2011. Consumption registered a significant decline compared to the previous year (-13%) due to warm weather conditions and as a consequence of the economic downturn.

Storage capacity in France is of 143.6 TWh, representing nearly 30% of French consumption of natural gas in 2011.

Investment

Dunkerque LNG's shareholders took their final investment decision on June 27th, 2011. It is expected that the terminal will be operational in late 2015 with an annual regasification capacity of 13 billion cubic meters.

Moreover, Shell and Vopak developed this year a draft project to build a third terminal at Fos, with a capacity of 8 to 16 Gm^3/year and launched a non-binding market consultation The final investment decision should be taken in 2013 so that the terminal will be operational in 2017.

In April 2011, CRE approved the project, supported by GRTgaz, to double the Rhone corridor (Eridan). This project was also considered as a priority by the European Commission and has been granted financial support via the European Energy Programme for Recovery.

Market Coupling

At the request of market participants and in line with the European gas target model, CRE intends to strengthen the gas exchange points (PEG). To this end, CRE discussed with the French GRTgaz and TIGF the possibility to merge balancing zones in France.