

# European and French Energy Market Opening up

2<sup>nd</sup> March 2007

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# Current framework

## European and French context and aims

- Pursuant to the talks and negotiations that began between the member states in the 80's, the EU decided to create liberalized electricity and gas integrated European markets and to promote competition, the overall aim of this being to benefit the customers
- In this respect the previous monopolies had to be removed unless they are economically justified, which is the case for the networks only (natural monopolies)
- The persistence of these natural monopolies impose a strong regulation in order to guarantee a free and non discriminatory access to the grids as well as their independence
- While implementing the European framework in favour of an integrated energy market, French electricity and gas markets have been gradually opened to competition

# Current legal framework

## European acts:

- directive of 26 June 2003 replacing the directive of 1996 (electricity)
- directive of 26 June 2003 replacing the directive of 1998 (gas)
- Regulation of 26 June 2003 on cross-border exchanges (electricity)
- Regulation of 28 September 2005 on conditions for access to the natural gas transmission networks

## French laws:

- law of 10 February 2000 transposing the 1996 directive (electricity)
- law of 3 January 2003 transposing the 1998 directive (gas)
- laws of 9 August 2004, 13 July 2005 and 7 December 2006 transposing the 2003 directives

# European Directives main features (1)

## 1 **Calendar** for the opening of the markets

- to all professional customers in July 2004
- to all domestic or residential customers by July 1<sup>st</sup> 2007

## 2 **Independence of transport and distribution system operators**

To permit a free and non-discriminatory access to the grids, system operators must be independent from activities which are not linked to transport, transmission or distribution, in all legal, logistical and management aspects. Beyond the accounting separation, a legal separation must be effective:

- by July 1<sup>st</sup> 2004 for transport and transmission
- by July 1<sup>st</sup> 2007 for distribution

even if separate ownership of transport and distribution grid assets from vertically integrated companies is not required yet

## European Directives main features (2)

**3 Role of regulators:** They are required to supervise or deal with:

- the management of interconnections and possible congestion and, globally, the way in which system operators fulfil their missions
- access to the system and the related contracts
- accounts unbundling
- tariffs
- settlement of possible disputes
- evaluation of the level of transparency and competition on the markets
- publication of a report on their activities

**4 An advisory committee of regulators (ERGEG)** is set up by the European Commission with the following objectives:

- to encourage co-ordination between national regulators
- to promote the development of the internal energy market
- to ensure that directives are applied consistently in all Member States

# Regulation in France

## The regulator's main tasks

An independent public body created in March 2000, the CRE:

- **Monitors the market** (prices, market shares, etc)
- **Grants non-discriminatory access to the grids** mainly through:
  - proposals to the government on tariffs for transmission and distribution
  - settlement of disputes
- **Checks the absence of cross-subsidies** between the various activities inside integrated companies (generation / transmission / distribution)
- **Defines rules regarding unbundling of accounts.** In this respect, it enjoys totally free access to these companies' accounts (power to audit)
- **Evaluates the independence** of the network operators

## The regulator's powers

- **Regulatory** power (e.g. rules of connection to the networks)
- Power to make **proposals** (e.g. access tariffs)
- It has to be **consulted** by the Government (e.g. decrees, tariff measures)
- Information and **investigative** power (e.g. access to the information held by market players)
- **Quasi-jurisdictional** power (e.g. settlement of disputes on access to the networks)
- **Sanctioning** power (e.g. financial penalty, equal to a maximum of 3% of the sales figure)

the Commission activities are under control by means of public activity report to the Government and the Parliament, hearings by the Parliament Committees. Its management is audited by the "Cour des Comptes" ...

# The regulator's working methods

- **Independence** and **impartiality**
- **Reactivity**
- **Transparency** and **Consultation**
- **Information** advices, decisions, annual report, press conferences...

(in particular *via* the CRE's web site [www.cre.fr](http://www.cre.fr) )

# Opening-up of the French Market

## Opening up of the French market: calendar

	2003	1 <sup>st</sup> July 2004	1 <sup>st</sup> July 2007
Electricity	7 GWh/year <i>3,100 sites</i>	All professional customers <i>4,5 million sites</i>	Everybody <i>33,5 million</i>
Gas	7 Mm <sup>3</sup> /year (83 GWh/year) <i>1,200 sites</i>	All professional customers <i>640,000 sites</i>	Everybody <i>11 million</i>

# Status of the Opening up of the French electricity market

As of 1<sup>st</sup> January 2007

- **68 %** of the market **open** (295 TWh)
- **More than 80 active players:**
  - around 26 are direct suppliers for eligible consumers
  - 28 supply RTE or DSO-EDF to compensate grid losses
  - 54 have import-export activities
- **740,600 sites have taken advantage of their eligibility:**
  - 276,500 of them having changed supplier, representing ~15% of the volume open to competition (~44 TWh)
  - 464,100 of them are provided by incumbent suppliers, representing ~35% of the volume open to competition (~103 TWh)
- Consequently, **around 50%, in volume**, of the eligible customers have taken advantage of the opening-up of the French electricity market

# Hurdles and remedies to international competition

## Hurdles

- **Lack of interconnections** : The cross-border interconnections were not initially built as a support for multi-operators merchant exchanges. They must be strengthened in order to reduce the congestions which prevent the unification of the different national markets
- **Insufficient coordination between grid operators** to obtain a satisfying interoperability of the national networks

## Remedies

- **Strengthening the regulator's powers** for investments and coordination
- **Abolition of the priority given to long term contracts**
- **In case of congestion**, implementation of **explicit auctions** - decision taken by the French regulator on the 1<sup>st</sup> of January 2006 on the basis of 1228/2003 regulation
- Authorisation to implement **market coupling** (France-Belgium-Netherlands)

# Hurdles and remedies to national competition

## Hurdles

- **Insufficient independence** of the distribution networks operators
- **Risk of market abuse** by incumbent operators
- **Coexistence of regulated tariffs and market prices**

## Remedies

- **Ownership unbundling?**
- Better **market supervision** by regulators and competition authorities
- **Phasing out the regulated tariffs** except for low income customers

## Additional Market Mechanisms

In addition to its role as defined by the Law, the CRE has been proactive in order to foster competition:

- **Auctions** are organized to compensate technical **grid losses** (circa 6.5 % of French consumption)
- Creation of a **spot and futures market** called **Powernext** comprising 50 active members and trading an average of ~98000 MWh a day (Trading of derivatives began in June 2004). CRE has widely participated in defining its legal framework with RTE and monitors it in cooperation with the financial market regulator.
- Competition in supply: In return for its acquisition of a part of EnBW, a German company, EDF has been urged by the European Commission to make some of its generation capacity available to the competitors. **Virtual power plants** are now auctioned by EDF up to 6000 MW. This system is, roughly, comparable to gas release mechanisms
- Setting up of a **balancing mechanism** to offer a guarantee of the financial settlement of the balancing power provided by RTE

## Conclusion

- A lot has been done in a short period of time to promote effective competition. France is in the European average

*“France has taken a number of important steps to establish a sound legal and regulatory framework for a liberalised market. It has created a largely independent transmission system operator (TSO), introduced non-discriminatory third-party access to the network for all eligible players, and developed a regulator with adequate resources, experienced personnel and significant independence... (IEA 2004 survey on the French energy policy).*

- Ongoing work aims to promote a European gas and electricity market that remains uncompleted, notably due to the lack of interconnections
- In order to promote European harmonization, the CRE actively contributes to the works of the CEER (a council set up by the European regulators) and the ERGEG (set up by the European Commission)