Regulated tariffs for electricity: the Autorité recommends that the French government make practical preparations to abolish regulated tariffs for electricity and pursue the public policy objectives intended to be met by the tariffs through other measures

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Background

Pursuant to Article L. 337-9 of the French Energy Code (*Code de l'énergie*), the *Autorité* has submitted an assessment report to the Ministers for Energy and the Economy on regulated tariffs for electricity (*tarifs réglementés de vente d'électricité* – TRV). In the report, the *Autorité* notes, as was the case in 2021, that although the retail electricity markets in France have been opened up to competition, 59% of individual consumers and 35% of small non-household consumers still use TRVs. Given the planned end to regulated access to historical nuclear energy on 31 December 2025, the *Autorité* recommends that the French government carry out a comprehensive review of how the electricity markets are organised in France, and prepare for the abolition of regulated tariffs.

TRVs have multiple objectives (e.g. social and regional cohesion, consumer protection) and are managed at two levels, economically by the French energy regulator (*Commission de régulation de l'énergie* – CRE) and politically by the French government, which has deviated on occasion in recent years from the proposals made by the former. Designed to smooth out the prices faced by consumers, TRVs offer reassurance to the latter by protecting them from short-term wholesale price fluctuations, and play, due to their popularity, a key role

throughout the market for both individual and small non-household consumers.

However, TRVs constitute neither a low nor a fixed price, and have not prevented *ad hoc* intervention by public authorities in retail prices levels (sometimes even prompting the intervention). Moreover, TRVs blur the price signals that should encourage consumers to reduce their energy consumption, and heavily affect competition, by limiting opportunities for suppliers and the diversity of the offers available to consumers.

For the above reasons, the *Autorité* recommends that practical preparations be made to abolish TRVs, without abandoning the public policy objectives intended to be met by the tariffs, but by introducing more targeted instruments for those objectives, such as designating a supplier of last resort. If TRVs are not abolished, the *Autorité* puts forward proposals to overhaul the tariffs, to foster more competition on the retail markets.

TRVs no longer fully meet their objectives

TRVs play a certain number of roles on the retail electricity markets, although not always successfully, and without a specific general economic interest objective that would justify their existence. While their "smoothing-out" effect helps to keep prices stable, there is limited benefit to consumers, except in times of crisis. However, in times of crisis, TRVs alone are not enough to protect consumers, as the State can implement a number of additional measures.

- According to EU law, regulation of retail prices should be transitional

TRVs constitute public intervention in price setting, which should be transitional or limited to energy-poor or vulnerable household customers, according to Directive 2019/944. However, TRVs do not play the transitional role set out by EU law with a view to ensuring "*effective competition*" and "*efficient pricing*".

Moreover, in 2021 the European Commission stated that it was in favour of gradually phasing out TRVs, in accordance with the intention of the European legislator.

- TRVs limit the development of competition on the retail markets

TRVs account for a large share of the demand from household and non-household consumers, which are thus excluded from competition. The success of TRVs appears to stem from the market's monopolistic past and the relative passivity of consumers.

TRVs reinforce the already substantial role of the former historical monopoly in the electricity markets and the latter's image among consumers. They confine competing suppliers to a secondary role and limit the size of their customer portfolios, a source of economies of scale.

TRVs tend to constitute a form of general price-level regulation, sending a "guiding signal" against which all suppliers position their market offers. Moreover, that is how EDF and public authorities primarily sees TRVs.

- TRVs have the structural disadvantages of regulated prices

The level of TRVs fuels endless debate, partly due to the pursuit of conflicting objectives. The price of TRVs is nevertheless imposed throughout the market. Although based on an objective method of calculation, it is difficult in practice to revise TRVs upwards, given the political dimension involved in setting the tariffs. Besides economic regulation, which is intended to minimise the effects on competition, there is strong political regulation, notably because TRVs, which are directly controlled by public authorities, crystallize many of the hopes placed in energy policies.

The existence of TRVs is an obstacle to free competition and its potential benefits – in terms of price, innovation and investment.

The recommendations of the *Autorité*

For all the above reasons, the ***Autorité*** recommends that practical preparations be made to abolish TRVs, without abandoning the public policy objectives intended to be met by the tariffs, but by introducing more targeted instruments for those objectives.

- Recommendations to be implemented in the event that TRVs are abolished

The ***Autorité*** recommends that efforts to meet the objective of regional cohesion in areas served by local electricity distribution companies (***entreprises locales de distribution d'électricité*** – ELD), as well as in zones not connected to the continental metropolitan grid (***zones non interconnectées*** – ZNI), should be continued, regardless of the existence of TRVs. It therefore recommends lowering barriers to entry, in particular in terms of information systems, in areas served by ELDs, and separating the regulations applicable to ZNIs from the question of whether there should be TRVs in mainland France. The abolishment of TRVs in mainland France should not affect the situation in ZNIs, and should instead allow for the public energy service to be managed in a way that is better adapted to the local context.

Recommendation: Accelerate the implementation of measures to lower barriers to entry for suppliers to areas served by ELDs and foster the development of competition**.**

Recommendation: Consider the future regulation of prices in ZNIs separately from the question of whether there should be TRVs in mainland France.

The *Autorité* stresses the need to bolster the consumer protection framework by replacing TRVs with new, more targeted instruments. In particular, TRVs act, in practice, as an offer of last resort, enabling consumers that are unable to find a supplier on the market to have the option of purchasing energy at the TRV. The *Autorité* therefore proposes that several suppliers of last resort should be officially designated (as is the case for gas).

Recommendation: Designate either one or, if possible, several suppliers of last resort in accordance with the conditions stipulated in Directive 2024/1711 of 13 June 2024.

Recommendation: Bolster the consumer protection framework, without having the effect of instruments that should only be used in crisis situations becoming permanent, in particular by enshrining in law certain measures set out in the guidelines proposed by the CRE in the wake of the energy crisis.

Moreover, in order to assist consumers in choosing an offer on the market, the *Autorité* recommends that further steps should be taken to develop and promote the comparison tool of the French energy ombudsman (*Médiateur national de l'énergie*). If TRVs are abolished, the comparison tool could offer a benchmark index.

Recommendation: Continue to develop and promote the comparison tool of the French energy ombudsman.

If TRVs are abolished, the comparison tool could offer a benchmark index calculated by the CRE according to its cost-stacking method and, where applicable, offers indexed on the index.

Lastly, the *Autorité* proposes that abolishing TRVs could be combined with the introduction of conditional authorisation of offers with termination indemnities. The offers would compensate for suppliers' commitment to propose offers based on long-term prices, which protect consumers from short-term price fluctuations. They would allow for public authorities to continue to regulate the retail markets, for example by maintaining offers with smoothed-out prices in the absence of TRVs.

Recommendation: If TRVs are abolished, consider introducing conditional authorisation of offers with termination indemnities as a means of promoting certain types of offers for the benefit of consumers.

- Recommendations to be implemented in the event that TRVs are maintained

In the event that the French government decides to maintain TRVs, the *Autorité* puts forward a number of proposals to further stimulate the market, in particular by circumscribing the role of the historical monopoly.

Recommendation: If TRVs are not abolished, open up the possibility for all suppliers to distribute TRVs.

Recommendation: Within EDF and in the eyes of consumers, differentiate more effectively between the activities of supplying electricity at the TRV from a supplier's other activities, in particular commercial activities, by using a separate brand name.

In light of the ecological transition, the *Autorité* also recommends that consideration should be given to the question of price signals on the retail markets for all offers. Broadly speaking, TRVs should no longer be used as the main lever for public policy on electricity.

Recommendation: Give consideration to the question of price signals on the retail markets for all offers, including market offers, to ensure that TRVs are no longer the main lever for public policy on electricity.

Recommendation: Prepare for regulation after the end to regulated access to historical nuclear energy to foster competition in the upstream and downstream electricity markets, without there being a role for TRVs.

- Recommendations to be implemented in the event of an energy crisis

Lastly, the *Autorité* recalls that, in the event of a crisis, public authorities retain the possibility of intervening in the functioning of the retail electricity markets when

necessary. While targeted measures are generally preferable, EU law does not preclude public authorities, in the event of a serious energy crisis, from reinstating TRVs on a transitional basis or, at the least, intervening in the setting of retail prices.

ASSESSMENT REPORT OF 12 NOVEMBER 2024

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Read the report (in French)

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