8 March 2012: Social energy tariffs

Published on March 08, 2012

The Autorité de la concurrence supports a modification to the law in order to enable all electricity suppliers to offer the social electricity tariff.

Such a development would allow vulnerable customers to benefit from reduced energy bills.

> Version française

The Autorité de la concurrence has today published its opinion given to the government, following a request for an opinion about a draft decree relating to the establishment of an automatic procedure for the granting of social tariffs of gas and electricity, which was referred to it on 19 December 2011. The decree was published yesterday in the Official Journal of the French Republic.

Social energy tariffs are compatible with competition law

In its opinion, the Autorité notes that social mechanisms designed to protect vulnerable customers are not in principle incompatible with competition law. The intervention of the public authorities is legitimate as long as it aims to correct a market failure and to fulfil a public interest objective. However, as the Autorité has frequently recalled, social measures must nonetheless introduce the least possible amount of market distortion.

Vulnerable customers on the social electricity tariff are not able to benefit from competition, unlike other customers

The public authorities wish to make the granting of social tariffs an automatic process in order to make these mechanisms as effective as possible. Modifying the process does not within itself give rise to significant competition issues.

On the other hand, one fundamental characteristic of the social electricity tariff has been causing problems since 1 July 2007, the date on which the electricity and gas markets were opened up to competition for all customers: under the provisions of the French Energy Code (Code de l'énergie), only EDF or the relevant incumbent supplier operating within its service area[1] (Entreprise locale de distribution, or ELD) may offer this social tariff.

As a result of this legislation, customers benefiting from the social electricity tariff are obliged to turn to EDF or the relevant ELD, depending on their place of residence, for the proportion of their consumption that exceeds the volume supplied under the social tariff, which has an annual cap of 1,200kWh. This volume of 1,200kWh per year corresponds to the normal use of a fridge, hob and lighting in the home. In practice, it is therefore very quickly exceeded by those with electric heating.

In order to reduce vulnerable customers' electricity bills, the Autorité recommends that all suppliers should be able to offer the social electricity tariff, a move which would require new legislation.

Within a context where the opening up to competition of the French electricity market is struggling to become a reality, the fact that the social electricity tariff may not be offered by alternative suppliers raises genuine competition concerns.

Customers benefiting from the social tariff cannot take advantage of the competitive market, even though some alternative suppliers offer tariffs that are lower than those of EDF or the ELDs. To enable vulnerable customers to reduce their overall electricity bill (the element charged at the social tariff + the element in excess of the cap), it would therefore be necessary for all suppliers to be able to offer the social tariff.

Moreover, such a distortion of competition constitutes a significant hindrance to the growth of alternative suppliers in the electricity supply market, to the detriment of vulnerable customers.

Furthermore, this distortion also affects the natural gas market, as offers for

both electricity and gas (so-called "dual" offers) play an important role in market dynamics. In fact, it should be pointed out that only EDF (or the electricity ELD in question and within its own service area) is able to offer vulnerable customers a dual "social" offer, including both the social electricity tariff and the social gas tariff. The Autorité also points out that under the provisions of the decree, customers eligible for the social electricity tariff must receive a letter from their incumbent supplier (EDF or the relevant ELD) stating that they may benefit from the social tariff provided that they leave their current supplier and return to the incumbent supplier.

In conclusion, the Autorité de la concurrence cannot exclude the possibility that the French Energy Code (Code de l'énergie) in its current form, by obliging vulnerable customers to return to their incumbent supplier in order to benefit from the social electricity tariff, does not comply with the electricity Directive. It recommends to the government a modification of existing legislation with a view to enabling all electricity suppliers to offer the social electricity tariff to vulnerable customers, as is the case with gas suppliers and the social gas tariff.

The social electricity tariff ("tarif de première nécessité", or TPN)

Coming into force on 1 January 2005[2], this tariff is offered by so-called "incumbent" suppliers, namely EDF (over an area covering 95% of the population) and local incumbent suppliers (entreprises locales de distribution, or ELDs) in the rest of the country. It consists of a reduction of between 40% and 60% compared to the regulated tariff, varying according to the number of persons within the household. The consumption volume to which the reduction is applied is subject to a cap of 1,200kWh/year.

By the end of 2010, approximately 615,000 households had benefited from the TPN, among 2 million eligible households (beneficiaries of the couverture maladie universelle complémentaire, or CMU C[3]), representing 6% of all households The cost of TPN for local and regional public authorities, estimated at an annual sum of around 45 million Euros, is financed by a tax paid by all electricity customers (the contribution au service public de l'électricité, or CSPE) and irrespective of their supplier.

The social gas tariff ("tarif spécial de solidarité", or TSS)

In force since 2008, this social tariff may be offered by all natural gas suppliers. It consists of a standard rate reduction which varies according to the size of the household and its level of consumption.

By the end of 2010, approximately 307,000 households had benefited from the TSS among a total of 800,000 eligible households connected to the natural gas network (beneficiaries of the CMU C). The cost of the TSS, estimated at an annual sum of around 20 million Euros, is financed by the TSS contribution (CTSS), a tax paid by the gas suppliers.

(1) See box below: "The social electricity tariff"
(2) The TPN was created by the decree of 8 April 2004. See in this regard opinion 02-A-13 of 23 October 2002 given by the Conseil de la concurrence in relation to this draft decree.
(3) Examples: for a single person living in mainland France, if his/her income is

below 648 Euros per month, for 2 persons, below 971 Euros.

> See full text of Opinion 12-A-03 relating to the draft decree on the implementation of an automatic procedure for granting social gas and electricity tariffs (in French)

> Press contact: André Piérard / Tel.: (+33) 1 55 04 02 28