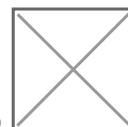


18 April 2013: Sale of natural gas to private and business consumers

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Maintaining regulated gas tariffs has an unfavourable influence on the competitive process without making any positive contribution to the competitiveness of French companies or the purchasing power of households
In an opinion given to the government regarding a draft decree on regulated gas tariffs, the Autorité de la concurrence recommends that they be removed, progressively, so as to allow the development of more competitive offerings, to the benefit of consumers

> *Version française*



The Autorité de la concurrence submitted an opinion to the government regarding the draft decree on regulated tariffs for the sale of natural gas, amending Decree no. 2009-1603 of 18 December 2009, aimed at implementing the new means of setting regulated tariffs for the sale of natural gas desired by the government.

This draft decree sets out several amendments to the current mechanism for setting regulated tariffs. These amendments include the systematic performance of audits, each year, by the *Commission de régulation de l'énergie* (Energy Regulation Commission – hereinafter CRE) in relation to supply costs and costs unrelated to supply costs borne by incumbent suppliers. The Autorité is in favour of this annual audit and of the CRE being able to suggest changes to the tariff formula on the basis of this audit.

The draft decree also provides that the decrees setting the tariffs applied by GDF Suez should no longer be decided every quarter, but once a year, while allowing a more frequent change in tariffs – once a month maximum – in line with changes in GDF Suez's supply costs. While the Autorité is in favour of this provision of the draft decree, which would help to ensure better coverage of the incumbent operator's supply costs, it also feels broader consideration should be given to the relevance of maintaining regulated tariffs for the provision of natural gas in France.

Current flaws in the natural gas retail market

In its opinion, the Autorité points to several reasons why the natural gas supply market has failed to open up to competition (not including large industrial customers), and emphasises the following elements in particular:

- **Lack of information for private and business consumers**

Many gas consumers think that the regulated tariffs protect them from price increases, when cheaper offers are available on the market. Furthermore, the media attention garnered by each movement in the regulated gas tariffs strengthens the idea held by numerous consumers that there is just a single gas price in France - that of the regulated tariffs offered by the incumbent supplier¹. At 30 September 2012, 90% of residential gas consumers were being supplied at the regulated tariff.

Furthermore, more than half of residential consumers do not know that they can choose their natural gas supplier and 68 % of them are unaware that EDF and GDF Suez are two different, competing² companies, which can have the effect of favouring the recruitment of new gas customers by EDF at the time when the electricity supply is "put into service" in residential or professional premises (when moving house or office). Furthermore, the misguided understanding still endures that leaving the regulated gas tariff (in the case of residential consumers), would be "irreversible" forever, even though this has not been the case since 2010.

Paradoxically, the alternative gas supplier that has experienced the biggest growth – EDF – is also the one that offers a gas supply that is more expensive than the regulated tariffs.

The poor level of information for consumers prevents them from taking advantage of offers from alternative suppliers which are, in certain cases, much more competitive than the regulated tariffs (up to -15% in certain segments).

- **Alternative gas suppliers dissuaded from entering the market**

The mechanism introduced in 2009, aimed at setting the regulated tariffs transparently on the basis of a tariff formula that should reflect costs, was not implemented by the public authorities: tariff amounts were frozen or increases thereto were limited on several occasions. These freezes and limits on tariff increases have given rise to a significant number of legal cases brought before the Conseil d'Etat (Council of State) over the last few years. The Conseil d'Etat revoked several tariff orders and charged the ministers for energy and the economy with making new tariff decisions in accordance with the suppliers' tariff formulae and ensuring that any freezes and limits on the tariff amounts passed are made up on future tariffs.

This uncertainty and these legal cases led to a real distrust of alternative suppliers. They were consequently dissuaded from any massive investment in promoting their offerings, particularly as far as residential consumers were concerned. To invest in the market, alternative suppliers would have needed visibility and regulatory stability.

Regulated tariffs are the main factor for flaws in the gas supply market

The Autorité holds that these tariffs do not protect the purchasing power of consumers or the competitiveness of companies, while at the same time dissuading alternative suppliers from entering the market, even though these suppliers could stimulate competition by promoting market offerings that are cheaper than the regulated tariffs.

On this matter, our European neighbours' situation, described in the opinion, is enlightening. Since 2009, French gas prices (paid by residential consumers) have constantly been significantly higher than the European average, and higher than those in both Germany and Great Britain, where regulated gas tariffs no longer exist.

Moving, progressively, towards the abolition of regulated tariffs for gas supply

In view of the competitive analysis that it has performed, the Autorité de la concurrence recommends that the government draw up a roadmap aimed at removing, progressively, all regulated gas tariffs, starting with those applying to major industrial customers, then those applying to small- and medium-sized businesses and finally those applying to small-scale consumers (residential and business). This removal of regulated gas tariffs could be spread out over the next few years. In the short term, it seems equally indispensable that each tariff covers the costs borne by the incumbent operator.

(1) GDF Suez over 95% of the territory connected to the natural-gas distribution network or the local distribution company for the geographical area concerned over the rest of the territory (ex: Gaz de Strasbourg, GEG...).

(2) Source: 6th annual Energie-Info survey on the opening-up of gas and electricity markets, survey carried out in September 2012.

> Full version of Opinion no. 13-A-09 of 25 March 2013 on a draft decree regarding regulated tariffs for the sale of natural gas

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