
DEREGULATION AND OPENING OF THE ELECTRICITY MARKET IN FRANCE

Fabien BARTHE**Direction Générale de l'Energie et des Matières Premières – France
fabien.barthe@industrie.gouv.fr**

Pursuant to the law n°2004-803 dated august 9th 2004, the French eligible market opened to competition in 2000 was extended to all non household customers from July 1st 2004 on. The aim of this paper is to provide an update on the recent regulatory changes, that were required to implement this extension. It also underline the scope of the changes for distribution system operators in France. It also gives an insight on the change of legal status of Electricité de France.

France has thus become a mass market with more than 3.5 million eligible customers, weighing more than 275 TWh of annual consumption, ie 70% of the total domestic market size, which also makes it the 3rd in size among all open markets within the European Union. To date, 8 months later, more than 90 000 sites have either switched supplier or renegotiated with their existing supplier prices and terms for the purchase of their electricity. This amounts to roughly 6 TWh. Moreover, 17 TWh of distribution networks losses are now being provided through the market.

From a supplier perspective, the conditions imposed on suppliers to sell electricity to eligible consumers, whether settled in France or not, were significantly eased, enabling a growing number of players to be active in France, including players with no generating capacity. In the previous regulation purchase of electricity for resale to eligible customers was legal only for authorised producers, in a strictly limited proportion of the quantity of electricity generated by their installations, namely 20% of it. The law n° 2003-8 dated January 3rd 2003 paved the way for a reform, opening the activity to all suppliers, provided they file a prior declaration to the minister for energy. The framework for this prior declaration was set through the Decree n° 2004-388 dated April 30th 2004. Since then, more than 20 suppliers have been granted the “purchase for resale” receipt.

One has also to underline the growing role of the POWERNEXT organised trading place. 43 players were active on POWERNEXT by December 2004. In 2004, more than 14 TWh were exchanged (against 7.5 in 2003) on the day ahead market. POWERNEXT also started a futures market in 2004. Nonetheless, over the counter transactions still make the most of wholesale volumes.

REGULATORY REQUIREMENTS FOR THE OPENING TO THE NON-HOUSEHOLD MARKET

First, the Decree n° 2004-597 dated June 23rd 2004 stated that all final consumers on a particular site shall be recognised as an eligible consumer provided that all or part of the electricity consumed is not used for household needs. Again, the registration procedure that had been set up in the first times of the opening was abandoned, together with the publication of the list of eligible customers that had become meaningless with such a large number of customers.

The framework for Third Party Access had already been set up in 2001 and 2002, and didn't have to be modified. Regulated TPA was an early choice of the French legislator, and was soon translated into a first decree (decree n°2001-365 dated April 26th 2001) setting out which costs had to be covered by the network tariff, and in which way these costs could be spread among network users. After a transitory phase, the proposal of the French regulator, the *Commission de Regulation de l'Energie*, was adopted (decree n° 2002-1014 dated July 19th 2002). The corresponding decree provided for network tariffs to all kinds of users whether connected to the transmission or distribution networks. Although time and geographical differentiation were considered in principle, the regulator chose to retain only the first in practice. Transparent and equal conditions were then in place for use of public networks.

Beside the tariff, contracts had to be concluded between the transmission system operator (TSO), or distribution system operators (DSOs), and their users, as set by the law n°2000-108 of February 10th 2000. The contractual framework would obviously need to be adapted to the needs and characteristics of the small customers, which if it appeared too complicated would be deterred to enter the market. One of the main difficulty was the necessity to sign one contract with the TSO or DSO and at least another one with its supplier. That is why the legislator provided for a scheme that let suppliers and public network operators to engage into a contract whereby the supplier assumed some of the obligations of its customers related to the access to public networks (introduced by law n° 2003-8 dated January 3rd 2003). The so-called contract “GRD-F”¹ was the result of a thorough consultation process and successfully used since July 1st. So far, 13 such contracts have been signed and the majority of eligible customers have a “contrat unique”.

In order to ensure the security and safety of the system as well as the quality of its operation, general rules were

¹ Gestionnaire de Réseau de Distribution – Fournisseur (DSO – Supplier)

adopted establishing technical design and operational requirements for connection to the public electricity transmission and distribution networks that the producers' and the consumers' installations have to satisfy (Decree n°2003-229 dated march 13th 2003, decree n°2003-588 dated June 27th 2003 and subsequent decrees).

TECHNICAL REQUIREMENTS FOR THE OPENING

Obviously, both the TSO and some of the DSOs, mainly EDF, had gained some experience in setting up the contractual and information systems framework to cope for scheduling, balancing and metering necessary for the first stages of opening to competition. But the situation was far easier since all eligible customers were equipped with meters recording the load curve. The need for a mechanism able to create for each small customer a virtual load curve stemmed from the possibility of supplier switching and the variety of pricing offers with a range of formula that valued the load differently over time (like the network tariff). It was also needed to compute the variations between scheduled and actual load and generation, and distribute them to the different players. A number of workshops were set up in 2003, in which the DSOs were particularly involved, to set the "*profilage* (shaping)" mechanism, which is now running satisfactorily.

CONSEQUENCES ON THE DISTRIBUTION SYSTEM OPERATORS

As regards the DSOs in France, EDF operates more than 95% of the networks, under the regime of the public franchises, networks being owned by regional authorities. In the remaining territories, over 163 so-called "Distributeurs Non Nationalisés (DNN)"², which are public entities, operate the distribution networks. If EDF was expected to be ready for the July 1st deadline, a number of DNN, most which are very small in size, have experienced difficulties in preparing this evolution.

They were also preoccupied with their future role in the electrical system, as regards their historical role of supplier to all non eligible customers in their franchised territory. Conditions to survive with a shrinking source of protected revenues, and network tariffs that strive to embrace the average network costs more than reflecting the individual costs were examined. Plus the concern about the unbundling from other activities for the larger of them.

Two main solutions were retained in the law n°2004-803 dated august 9th 2004:

- the possibility of merging of DNN ;
- the possibility to transfer all supply contracts to eligible customers to a commercial subsidiary, the latter being able to reach all customers beyond the territorial limit of the franchise ;

Specific provisions were also designed in terms of tariff for the purchase of electricity to EDF, and of network tariff.

Some of the largest DNN are currently very active and have been granted the "purchase for resale" receipt. A few ones are carrying out the required legal steps to set up a subsidiary such as described previously.

THE CHANGE OF STATUS OF EDF AND THE LEGAL UNBUNDLING OF RTE

2004 is likely to be a landmark in the history of the electricity industry in France. In 1946, EDF was born as the result of the nationalisation of almost all generation, transmission and distribution privately-owned assets. The law n°2004-803 dated august 9th 2004 makes EDF a commercial undertaking and transposes the 2003/54/CE directive concerning the internal electricity market, notably the legal unbundling condition for vertically integrated undertakings. It therefore provides for legal separation of the transmission system operator. Statutes of EDF SA have been adopted by Decree dated November 19th 2004.

Statutes, technical code and other measures are currently under preparation to go along with the creation of the future subsidiary which will assume the operations of the transmission network, whose assets it will retain.

As concerns the distribution organisation, EDF will remain, where it already is, the operator in charge of the distribution networks within the scope of the 1500 franchises over the territory. From an organisational perspective, a "common operator" is to be set up between EDF and GDF, which will carry out the existing operational missions such as maintaining and building the networks, operating the system and metering. These missions were in fact historically assumed by a common entity of the two public establishments EDF and GDF.

FOSTERING COMPETITION

Although necessary conditions for an open and active market are thought to be in place, effectiveness of competition is always questionable, especially where the incumbent operator benefits from a generating mix that is truly competitive, owing to nuclear power. That is why France is aiming at increasing the interconnection capacities with neighbouring countries, which also benefits to both countries in terms of security of supply and safety of the interconnected transmission grid. Active projects are being pursued on the spanish, italian and belgium borders notably.

The application of the 1228/2003 regulation on cross border exchanges will also lead to the optimisation in the use of interconnection capacity and will therefore lead to changes in the various mechanisms used so far to allocate available capacity to market participants.

² Literally, non-nationalised distributors.

Finally, “virtual power plants” auctions, amounting to 6000 MW of capacity (baseload, peak, and PPA-like), have been sold to market players since 2002, which in turn feed the French wholesale market and supplies, at least in part, eligible customers.