

**D I S C U S S I O N   P A P E R**

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## INTRODUCTION

On May 8, 2018, the Régie de l'énergie ("Régie") rendered a procedural decision concerning an application from Énergir, L.P. ("Énergir") for file R-4008-2017 ("Application") regarding the implementation of measures concerning the purchase and sale of renewable natural gas ("RNG")<sup>1</sup>. In particular, it wrote the following:

*[Translation]*

*[37] Based on the evidence submitted in this file, the Régie has identified the following major issues:*

- *Method of calculating the RNG acquisition price for the purpose of applying the RNG tariff;*
- *Functionalization of costs incurred by Énergir in relation to RNG supplies;*
- *Monitoring of RNG sales;*
- *Impact of RNG volume imbalances;*
- *Changes to conditions of service related to RNG supplies;*
- *Components and contractual framework for RNG supply contracts;*
- *Useful life of RNG;*
- *Creation and allocation of deferred expense accounts (DEAs).*

*[38] As mentioned in the previous section, the Régie is of the opinion that it should process the Application based on the regulatory framework as it currently exists. However, the Application is based instead on expected regulatory foundations. In the Régie's opinion, this discrepancy in the regulatory foundations could call into question the actual structure of the Application.*

*[39] Under the circumstances, before examining the Application in detail, the Régie believes that it is appropriate to clearly determine the parameters and features of the file by studying the various options for tariffs and conditions of service related to supply, transmission and delivery through which RNG can be made available to Énergir's customers. For example:*

- *Supply of "RNG tariff"-type RNG by Énergir according to the Énergir proposal;*
- *Supply of "fixed price"-type RNG;*
- *Supply of "direct purchase by customers"-type RNG where customers can obtain supplies:*
  - *directly from a production site,*
  - *through a recognized broker,*
  - *through an Énergir subsidiary carrying out non-regulated activities.*

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<sup>1</sup> Reference B-0026.

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[40] *The Régie considers it important to examine these options based on the elements or features of the RNG tariff that ensure compliance with the Act, more specifically with subparagraphs 31(1) and (2.1), and section 52.*

[41] *It must also take the following into consideration:*

- *Determination of the cost elements that should be taken into account in the RNG supply price;*
- *Reciprocity of conditions of service between an RNG supply service provided by a broker and an RNG supply service provided by the Distributor;*
- *Eligibility for the RNG tariff and the regulatory impacts.*

[42] *For those purposes, the Régie will hold a hearing on **June 14 and 15, 2018 at 9:00 a.m.** in the Krieghoff room of its Montréal premises to hear the participants' positions concerning the following:*

- *Best option or best portfolio of options for tariffs and conditions of service related to supply, transmission and delivery through which RNG can be made available to Énergir's customers;*
- *Elements or features of the proposed RNG tariff that ensure compliance with the Act;*
- *Cost elements to be taken into account in the RNG supply price and the reciprocity elements between a service provided by a broker and a service provided by Énergir as well as the conditions for customer eligibility to the RNG tariff.*

[43] *The Régie is asking the participants to submit their discussion paper concerning the elements specified in the preceding paragraph **by May 31, 2018 at 4:00 p.m.***

[our underlining; bold appearing in the decision]

This paper is intended as a response to the Régie's request in paragraph 43 of its decision D-2018-052. In drafting this paper, Énergir has taken into account certain factors such as the Régie's use of the expression "before examining the Application in detail" in paragraph 39 of decision D-2018-052 and the expression "discussion paper" (rather than "evidence") in paragraph 43 of that decision. Énergir understands that by using those expressions, the Régie is indicating that the purpose of the document requested from participants and of the hearing on June 14 and 15 is not to rule on the merits of the Application or the supporting evidence submitted nor to review all the major issues identified in paragraph 37 of decision D-2018-052, including creating and allocating deferred expense accounts. Énergir understands that the applicable merit-based review will be done during the subsequent steps (paragraph 63 of decision D-2018-052) of the public hearing ordered by the Régie in its decision D-2017-080, at which time the participants will have the opportunity to be heard. The following details are therefore provided

without prejudice and are subject to additional representations, which may be made later as part of the file review.

Consequently, Énergir has developed the following ideas, keeping in mind that the Régie's goal at this stage of the file is to "clearly determine the parameters and features of the file by studying the various options for tariffs and conditions of service related to supply, transmission and delivery through which RNG can be made available to Énergir's customers" (our underlining, decision D-2018-052, para 39). In doing so, we will present our ideas successively for each of the three topics identified in paragraph 42 of the decision.

## **1 OPTIONS FOR TARIFFS AND CONDITIONS OF SERVICE**

This section covers the first discussion point:

***Best option or best portfolio of options for tariffs and conditions of service related to supply, transmission and delivery through which RNG can be made available to Énergir's customers.*** (first bullet of paragraph 42 of decision D-2018-052)

### **1.1 ÉNERGIR'S OBJECTIVES**

Énergir has proposed various changes to its *Conditions of Service and Tariff* in recent months in order to provide easier access to RNG for a greater number of customers. The objectives of those changes were as follows:

- Meet demand from customers who want to use renewable energy;
- Ensure the long-term viability of gas distribution service; and
- Achieve new greenhouse gas reduction targets in line with Québec's 2030 Energy Policy.

The achievement of those objectives depends to a large extent on developing the RNG offering in Québec. As a distributor, Énergir intends to act as a facilitator between RNG producers and consumers.

## 1.2 AVAILABLE OPTIONS

For traditional natural gas, customers may decide to pay the natural gas tariff (“system gas”) for Énergir’s supply service or may provide their own supply service (“direct purchase”). Interested customers are therefore able to take advantage of opportunities available in the market.

This is also what Énergir is attempting to allow for RNG. Figure 1 shows the available or proposed options for RNG consumption. Option A represents a customer of Énergir’s supply service who procures all or part of its supplies at Énergir’s RNG tariff. Option B represents a direct purchase customer who procures all or part of its RNG supplies directly from the market. Option C represents a customer who combines the RNG tariff for Énergir’s supply service with traditional gas purchased directly, while Options D and E represent customers who combine RNG supplies purchased directly from the market with traditional gas from the distributor’s supply service.

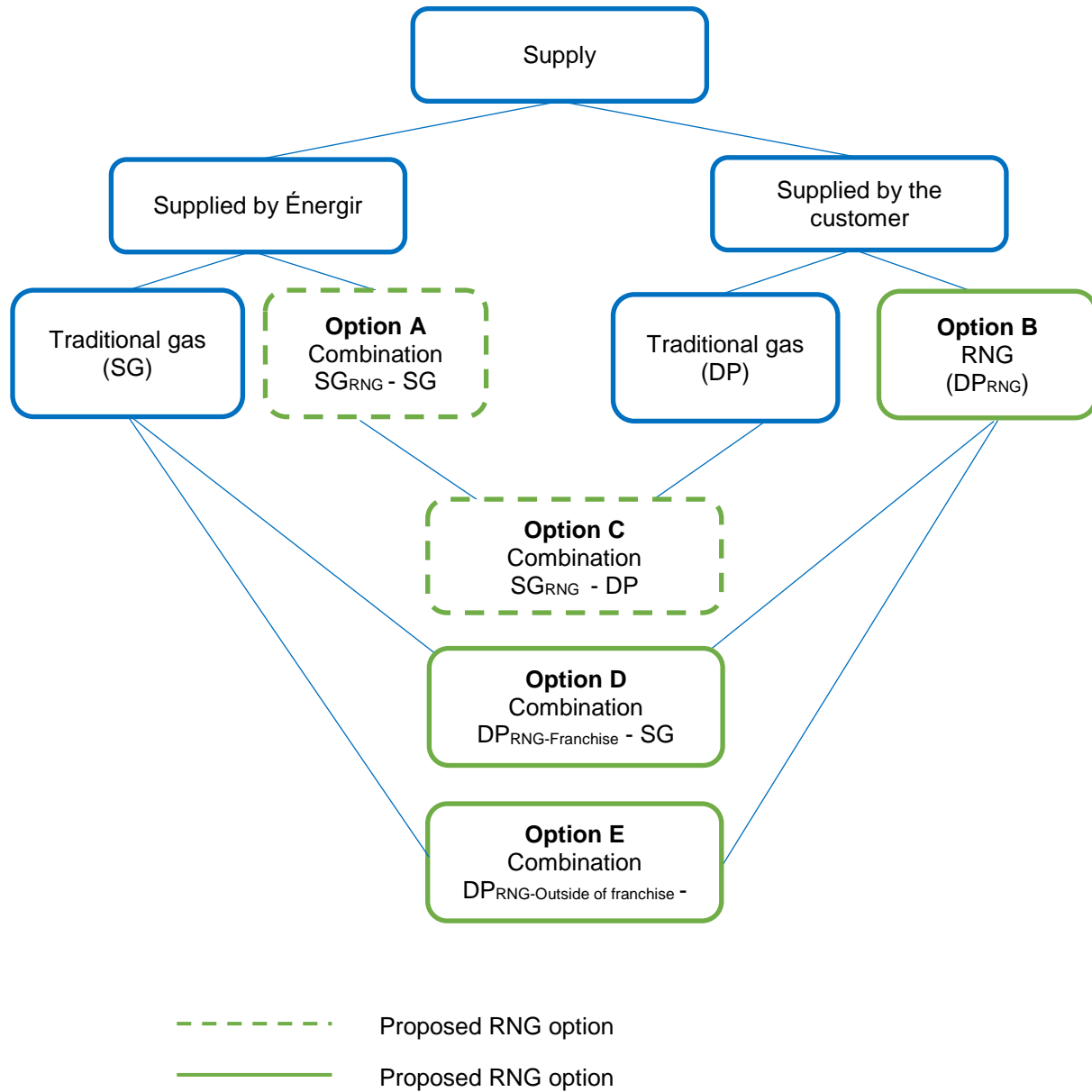
Options B, D and E, which are available for direct purchase customers, have already been approved by the Régie<sup>2</sup>. Proposed Options A and C, which are not currently available, are intended to offer RNG to customers who would like to use the distributor’s supply service.

The portfolio of available options would allow all customers to access RNG in the same way they do for traditional natural gas. Énergir’s offering must be complementary to what the market offers so that a complete comprehensive offering is available.

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<sup>2</sup> D-2017-041, section 2.

**Figure 1**  
**Available and proposed options for RNG consumption**



### **1.2.1 For direct purchase customers**

At the outset, as part of the 2018 rate case, Énergir modified its conditions of service in order to make it easier for a free market to exist between RNG producers and customers who wanted to use RNG<sup>3</sup>. The changes proposed and approved by the Régie<sup>4</sup> allow supply services to be combined so that customers who want to purchase directly from RNG producers can use the distributor's supply service as a complement to their total consumption<sup>5</sup>. Approval was also given to ease the penalties concerning volume imbalances for customers who use RNG produced by a franchise.

### **1.2.2 For system gas customers**

To give all its customers access to RNG, Énergir is proposing to create a new RNG tariff as part of its supply service. This tariff would allow customers to consume RNG voluntarily from the distributor's supply service.

Changes are also proposed to enable customers to continue procuring natural gas through direct purchases while paying Énergir's RNG tariff for part of their consumption.

## **1.3 BROKERS' INVOLVEMENT IN THE RNG SALES MARKET**

By bringing these measures forward, Énergir wants to ensure that RNG is available to all its customers while maintaining room in the market for brokers. As a facilitator, Énergir would like all consumers to have access to RNG. The new proposed measures, together with the existing measures, have been designed so that all the needs of Énergir's customers are covered.

In the Énergir model, brokers can play a major role in facilitating access to RNG for customers who want to purchase RNG directly from the market. They are actively involved in Options B, C, D and E shown in Figure 1 for direct purchase customers. Moreover, the loosening of the rules concerning volume imbalances for customers who use RNG produced by a franchise will make it easier for brokers to sell RNG.

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<sup>3</sup> R-3987-2016, B-0069, Gaz Métro-2, Document 1.

<sup>4</sup> D-2017-041, section 2.

<sup>5</sup> Combination with the transmission service is also allowed when customers procure RNG produced by a franchise.



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In addition to direct purchases, brokers will also be able to sell RNG through the fixed-price supply service. They can therefore reach all the customers that they usually do business with.

Lastly, in reference to the last sub-bullet of paragraph 39 in decision D-2018-052, Énergir currently does not intend to act as a broker through a non-regulated subsidiary, just as it does not do so in supplying traditional natural gas. Nonetheless, even if Énergir did play an active role in that respect, the same rules that apply to brokers would apply to that non-regulated subsidiary. In addition, the various options outlined in section 1.2 would remain necessary in order to meet the objectives set out in section 1.1.

## 2 RNG SUPPLY PRICE, SERVICE RECIPROCITY AND RNG TARIFF ELIGIBILITY

This section covers the following discussion point:

***Cost elements to be taken into account in the RNG supply price and the reciprocity elements between a service provided by a broker and a service provided by Énergir as well as the conditions for customer eligibility to the RNG tariff.*** (3rd bullet of paragraph 42 in decision D-2018-052)

### 2.1 RNG SUPPLY PRICE

#### 2.1.1 Determining the RNG supply price

The method for determining the RNG supply price is described in section 5.3 of Exhibit B-0022<sup>6</sup>. As mentioned in that exhibit, and in compliance with section 52 of the *Act respecting the Régie de l'énergie*, the price would be set so that the actual RNG acquisition cost is recovered.

Consequently, only the RNG purchase costs would be taken into consideration. During the rate case, a price forecast would be done. A cumulative price difference account would also be considered in order to capture the difference between the billed price and the actual acquisition prices and it would be integrated into the RNG supply price when the rate case is evaluated. The price formula would be the following:

$$\text{RNG price } \$/\text{m}^3 = \text{Projected average purchase cost for the 12 months of the rate case} + \text{cumulative price difference}$$

This approach resembles the one currently used to determine Énergir's supply service price except that the price would be evaluated annually rather than monthly.

No other costs such as management fees would be included in the RNG supply price calculation. This position reflects the current practice for all supply services offered to customers, i.e.:

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<sup>6</sup> Gaz Métro-1, Document 1, pp. 34 and 35.

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- Énergir's supply service;
- Supply service resulting from a fixed-price supply agreement; and
- Customer's supply services with or without transfer of ownership, whether the customers use the distributor's transmission service or their own service.

The various costs related to providing and managing these services are distribution costs and are therefore functionalized to that service.

Énergir believes that there is no reason to change this practice for the RNG tariff.

### **2.1.2 Expired RNG purchases**

A specific feature of the proposed RNG tariff is the identification of expired RNG units, which are units that have not been sold to customers within two years of their purchase date. Énergir believes that there is a very low or nil probability of expired purchases.

As explained in section 6.1 of Exhibit B-0022<sup>7</sup>, measures would be implemented to monitor RNG purchases and sales. Any new requests for the RNG tariff and any increases in RNG consumption would be analyzed and would only be accepted if it was operationally possible to supply the RNG.

Énergir believes that there is a very low or nil probability of expired purchases two years after the purchase date. Based on demand from customers who have opted for Énergir's RNG tariff as well as projected demand, the RNG units currently under contract can be replaced. There would therefore be no expired RNG purchases in the short term.

For information purposes, four customers with a total of about 30 facilities have already opted for RNG. This includes one direct purchase customer and three Énergir RNG tariff customers<sup>8</sup>. Two of those customers will start consuming RNG by the end of 2018 and the others already have access to RNG. In addition, the list of customers who have shown interest in this service is continuing to grow. To date, about 10 customers with a total of

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<sup>7</sup> Gaz Métro-1, Document 1, p. 46.

<sup>8</sup> The contracts of customers who have opted for Énergir's RNG tariff are subject to the Régie's approval of the terms and conditions to be determined by the Régie in this file.

more than a 100 facilities are in the analysis phase without any marketing efforts having been undertaken.

The current challenge is related more to producers' RNG supply than customers' demand. For that reason, Énergir has concluded that contracted RNG purchases would be easily replaced by customers making voluntary purchases within a two-year timeframe.

Nonetheless, if any RNG units did expire, Énergir's proposal is that those units would be transferred from the RNG supply inventory to the system gas inventory according to the system gas value at the time of the transfer. That transfer therefore would have no negative impact on the customers of Énergir's system gas supply service because the inventory would be transferred at the same price.

Moreover, the differential between the actual acquisition cost of the expired RNG and the system gas price would be earmarked for a deferred expense account (DEA). The provisions for allocating that DEA will be examined at a later date.

## **2.2 SERVICE RECIPROCITY**

Based on the supply services currently available to Énergir customers, reciprocity does not exist between the RNG service offered by a broker and the system gas service offered by Énergir. As described in section 1.1, customers who would currently like to procure RNG can do so only through a contract for a direct purchase service from a broker or producer. Since Énergir does not offer RNG service, it has submitted its Application to expand its supply services by integrating a new RNG tariff.

If the Régie approves the Application, reciprocity would exist between the services offered by brokers and Énergir.

More specifically, this would encompass the following:

- Énergir customers who want to enter into contracts for RNG could opt for the distributor's supply service or procure the service themselves.

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However, the market for RNG produced in Québec is currently limited<sup>9</sup>. Instead, customers who want to enter into contracts for RNG have to go to the market outside Québec or to brokers, which in turn could potentially procure RNG outside Québec. The purpose of the Application is therefore to revise Énergir's method for determining the RNG purchase price in order to send a price signal that would encourage local RNG production and expand the offering for customers and third parties.

- Following a favourable decision concerning the proposal contained in this file, the various “DP<sub>RNG</sub> - SG” service combinations (Options D and E) made available to direct purchase customers as part of the 2018 rate case<sup>10</sup> would be extended to customers of the distributor's “SG<sub>RNG</sub> - SG” service (Option A) by setting an RNG consumption percentage, with the remainder consumed as system gas. The proposal also makes it possible for direct purchase customers to enter into a contract for Énergir's RNG supply service for a certain “SG<sub>RNG</sub> - DP” percentage (Option C), with the remainder maintained under the direct purchase service.
- Since the proposal for setting the Énergir tariff is based on the real RNG acquisition cost, it is comparable to the price that a customer could obtain from a third party. This approach is similar to the current market context with the system gas service.
- Customers with the “SG<sub>RNG</sub> - SG” (Option A) and “DP<sub>RNG-Franchise</sub> - SG” (Option D) service combinations would be given equivalent treatment because the Régie has given approval to exempt “DP<sub>RNG-Franchise</sub> - SG” customers from the rules for volume imbalances. The goal of this approach is to promote the development of RNG in Québec.

**2.3 CUSTOMER ELIGIBILITY FOR RNG TARIFF**

Section 5.4.1 of Exhibit B-0022<sup>11</sup> describes the provisions for activating Énergir's RNG tariff.

For administrative reasons, 60 days' prior notice would be required for customers who already use Énergir's supply service and who want to take advantage of Énergir's RNG tariff. That timeframe is the same as the prior notice for entering into a fixed-price agreement.

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<sup>9</sup> Reference: B-0022, Gaz Métro-1, Document 1, section 1.

<sup>10</sup> D-2017-041, section 2.

<sup>11</sup> Gaz Métro-1, Document 1, p. 38.

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For direct purchase customers, the rules for activating Énergir's supply service would apply. Therefore, 6 months' prior notice would be required in order to activate Énergir's RNG tariff; otherwise, migration fees would apply.

It should be noted that Énergir has proposed changes to the migration rules in phase 2 of file R-3867-2013<sup>12</sup>. The prior notices for activating and deactivating services would be 60 days, ensuring consistency for prior notices among all the supply services offered.

Énergir would eventually like to be able to make the RNG tariff available to all its customers. As mentioned earlier, many customers have shown interest in taking advantage of this service. Demand currently exceeds supply. Consequently, Énergir will initially have to manage eligibility to this service on a case-by-case basis. In general, the first-come first-served principle would apply. However, Énergir would still have the leeway to prioritize certain requests in order to maintain customer loyalty. This strategic approach would be advantageous for the clientele as a whole because it would allow Énergir to retain certain customers who would otherwise replace natural gas with another energy source for reasons such as complying with the government's exemplarity measures.

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<sup>12</sup> R-3867-2013, B-0133, Gaz Métro-5, Document 1, section 5.

### **3 RNG TARIFF FEATURES AND COMPLIANCE WITH THE ACT**

This section covers the following discussion point:

***Elements or features of the proposed RNG tariff that ensure compliance with the Act.*** (2nd sub-bullet of paragraph 42 in decision D-2018-052)

As mentioned in the introduction, Énergir's understanding of decision D-2018-052 is that at this stage the Régie has not focused on the discussion points with a view to examining the Application in detail. In this context, Énergir is taking a closer look at the *[translation]* "elements or features of the proposed RNG tariff that ensure compliance with the Act" (our underlining) without attempting to cover all the legal issues that could be raised when the merits of the application are examined.

Moreover, Énergir has noted that the Régie wrote the following in paragraph 40 of decision D-2018-052:

*[Translation]*

*[40] The Régie considers it important to examine these options based on the elements or features of the RNG tariff that ensure compliance with the Act, more specifically with subparagraphs 31(1) and (2.1) and section 52.*

[our underlining]

The sections cited by the Régie in that excerpt read as follows:

**31.** It is within the exclusive jurisdiction of the Régie to

(1) fix or modify the rates and conditions for the transmission of electric power by the electric power carrier or the distribution of electric power by the electric power distributor, and the rates and conditions for the supply, transmission or delivery of natural gas by a natural gas distributor or for the storage of natural gas;

(...)

(2.1) monitor the operations of the electric power carrier, the electric power distributor and natural gas distributors to ensure that consumers are charged fair and reasonable rates;

**52.** In any tariff for the supply of natural gas, the rates and other conditions applicable to a consumer or class of consumers must reflect the actual cost of acquisition to the distributor or any other terms granted to the distributor by producers of natural gas or their representatives in consideration of the consumption of that consumer or class of consumers. A tariff may also reflect any other acquisition-related cost of the natural gas to the distributor.

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First, section 31 of the Act assigns jurisdiction. Subparagraph 1 of the first paragraph gives the Régie exclusive jurisdiction for setting the tariffs and conditions for the “supply” of natural gas. Since RNG is considered “natural gas” in the definitions in section 2 of the Act, any tariff for supplying it must be set by the Régie. In other words, a natural gas distributor cannot bill an RNG supply tariff unless it has been set by the Régie (section 53 of the Act). In submitting its Application to the Régie, Énergir is enabling the Régie to exercise its exclusive jurisdiction by *[translation]* “approving the implementation of an RNG tariff for its supply service, together with the related terms and conditions” (B-0026, conclusion on p. 4).

In exercising this exclusive jurisdiction over the Application, the Régie must comply with subparagraph 2.1 of paragraph 1 of section 31 of the Act by exercising its power to monitor the operations of the natural gas distributor in order “to ensure that consumers are charged fair and reasonable rates”. In this respect, for the purposes of this discussion paper, it is understood that the “fair and reasonable rates” under consideration refer to the proposed RNG supply tariff as it relates to possible RNG consumers.

The content of section 52 of the Act must be taken into account when the Régie exercises its monitoring power over the supply tariff. That provision specifies in particular that in any supply tariff, the rates “must reflect the actual cost of acquisition to the distributor or any other terms granted to the distributor by producers of natural gas”. As explained in section 2.1.1 of this discussion paper, the RNG supply price would be set so that the actual RNG acquisition cost would be recovered based on an approach comparable to the one currently used to set the system gas supply price, except that the RNG supply price would be evaluated annually rather than monthly. Énergir would like to point out that, like the method for setting and periodically adjusting the system gas supply price, the proposed method for the RNG supply price *[translation]* “reflects, in advance, the average acquisition costs as accurately as possible” (D-95-44, p. 39). Énergir’s proposal is therefore fully in line with a regulatory practice that has been well established for many years and that certainly complies with the Act.

Moreover, Énergir believes that there is nothing in the Act—specifically in section 52—that prevents more than one supply tariff from being implemented. In fact, the Régie has already approved the implementation of a bi-energy supply tariff (D-94-74) as well as a fixed-price supply service offering (D-2003-180) in a legal context similar to the one currently in effect.



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Lastly, as shown in sections 1.2, 1.3 and 2.2 of this discussion paper, the RNG tariff proposed by Énergir would not have a negative impact on the free market's dynamics. Énergir has been careful in drafting a proposal specifically to address all the concerns that the Régie could have in that respect, as was the case for the Régie du gaz naturel when it examined a proposal from the distributor to implement a supply service (during the purchase-resale era):

*[Translation]*

“The Régie’s position is therefore that the distributor must continue to be active in supplying natural gas but must never use its distribution monopoly power to alter the rules of the game with respect to free access to gas markets by suppliers as well as consumers.” (D-94-19, p. 110)

Énergir believes that when the merits of the application are reviewed, any doubts that may remain for the Régie will be eliminated.

## **CONCLUSION**

This paper is intended as a response to the Régie’s request in paragraph 43 of its decision D-2018-052. These ideas have been developed while keeping in mind that the Régie’s goal at this stage of the file is to better understand certain elements of the Application. Énergir believes that a merit-based review of the application will provide a better opportunity to present all the elements that have been taken into consideration in developing the distributor’s ideas.