

Régie de l'énergie

File R-4008-2017

Discussion Paper from ACEF de Québec (ACEFQ)

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ACEF de Québec is responding to Régie de l'énergie (the Régie) decision D-2018-052 of May 8, 2018, and submitting its comments concerning the topics identified in paragraph 42 of that decision.

1. ACEFQ understands that the stakeholders are invited by the Régie to submit this discussion paper to assist in defining the parameters of the preliminary debate to take place at the hearing on June 14 and 15, 2018. Following this hearing, the Régie will be able to determine the specific issues to be addressed in relation to this file, and the Applicant (Énergir, or “the Distributor”) can then amend its evidence where necessary.
2. ACEFQ is consequently setting out its concerns relating to the items indicated in paragraph 42 of the decision in accordance with the framework defined by the Régie in paragraphs 32 to 42 of the same decision. The main considerations are as follows:
 - 2.1 In paragraph 32, the Régie identifies the two objectives pursued by the Distributor, namely:
 - To facilitate voluntary consumption for interested customers;
 - To send a price signal that encourages producers to boost RNG production.
(our underlining)
 - 2.2 In paragraph 33, the Régie notes that *[translation] “in light of the current regulatory framework, (...) this file concerns the establishment of a tariff and specific conditions of service to enable and facilitate, for Énergir customers, the voluntary purchase of RNG.”*
(our underlining)
 - 2.3 In paragraph 34, the Régie finds *[translation] “that one of the main issues in this file concerns the handling of the additional cost that participating customers are willing to pay when purchasing RNG. This additional cost is related to the production method of this natural gas (...).”*
(our underlining)
 - 2.4 In paragraph 35, the Régie notes that *[translation] “the RNG molecule is identical to and interchangeable with the molecule originating from fossil sources (and that, as a consequence) a debate concerning the identification of the natural gas molecule actually consumed (...) is not relevant (...).”*

- 2.5 In paragraph 36, the Régie determines that *“the nature of the inputs used and the production method of RNG are not relevant to a review of the proposals submitted under this file.”*
(our underlining)
- 2.6 In paragraph 37, the Régie identifies what it deems to be the main issues in this file, which include the method for calculating the RNG acquisition price. (our underlining)
- 2.7 In paragraph 38, the Régie states that it must process the application based on the regulatory framework as it currently exists and finds that the Application (from Énergir) [translation] *“is based instead on expected regulatory foundations”* and that [translation] *“this discrepancy in the regulatory foundations could call into question the very structure of the Application.”*
(our underlining)
- 2.8 In paragraph 39, the Régie finds that, before reviewing the Application, it is appropriate to define the parameters and characteristics of the file based on (...) the various supply purchase methods among its potential users, these being:
- through Énergir under an “RNG tariff”;
 - through Énergir or another supplier under a “fixed price” arrangement; or
 - by “direct purchase” through a producer directly, a broker or an Énergir subsidiary as part of unregulated activities.
- 2.9 In paragraph 40, the Régie notes the importance of examining these various options in compliance with the Act respecting the Régie de l'énergie (the Act) and, in particular, sections 31, subparas 1 and 2.1, and 52 thereof.
(our underlining)
- 2.10 In paragraph 41, the Régie identifies three requirements it must consider in reviewing the application:
- Determination of the cost elements to be taken into account in the RNG supply price;
 - Reciprocity of conditions of service applicable to an RNG supply service based on whether it is provided by a broker or the Distributor;
 - Eligibility for the RNG tariff and its regulatory impacts.

3. With respect to the first topic on which the Régie seeks stakeholder input:
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**

ACEFQ understands that this issue must be addressed in terms of service to customers located in Énergir's franchise territory and connected to its distribution network.

As for determination of an RNG supply tariff, where this supply is provided by the Distributor, the tariff should undoubtedly include the Distributor's supply acquisition cost, notably the cost of connecting to the production facility network. Where this supply is provided by direct-purchase method through a broker or directly by a producer, the supplier's acquisition cost is not subject to regulation under the current provisions of the Act. Nevertheless, costs related to connecting production facilities to the distribution network should apply, even in the case of customers under a direct-purchase arrangement obtaining their supply directly from a producer, if these customers are connected to the distribution network and have the option to obtain their RNG supply from Énergir.

With respect to transmission costs, insofar as the RNG molecule is identical to and interchangeable with the molecule originating from fossil sources, these costs should be determined and applied under the same conditions as currently in effect for the various transmission services (whether offered by the Distributor or contracted directly). Taking into account the origin of the RNG supply (upstream from franchise or in franchise), the transmission costs applicable to the price of RNG should be determined separately from the regular supply price.

Lastly, the delivery costs applicable to Énergir customers (load balancing, distribution) should continue to apply equally to all customers based on entire capacity used, including RNG in accordance with the applicable tariffs insofar as even customers opting for direct purchase for a portion of their RNG supply would have access to the services provided by the distribution network.

4. With respect to the second topic identified by the Régie:
Elements or features of the proposed RNG tariff that ensure compliance with the Act

First, ACEFQ maintains that the provisions of section 31, subparas (1) and (2.1), relate to the Régie's area of jurisdiction in that they apply to the supervision of a natural gas distributor. Section 52, meanwhile, lists the factors to be considered by the Régie when defining the rates or conditions applicable to consumers served through a distributor.

The RNG tariff proposed, being the tariff proposed by Énergir, must reflect the total cost incurred by the Distributor in relation to its RNG supply. With regard to the other components of the tariff applicable to consumers (transmission, load balancing, distribution), the applicable rates should be determined separately based on RNG capacity used only if and to the extent that the costs of providing the service to customers (using RNG) differ from the costs incurred for service involving natural gas of fossil origin.

This ground rule set out in section 52 of the Act must, however, be interpreted taking into consideration the ongoing (full) availability of services associated with the provision of natural gas of fossil origin that customers connected to the distribution network continue to use (or have the option to use) to meet, whether in whole or in part, their consumption needs through the use of RNG, whether through the Distributor or through direct purchase from another supplier.

Following this same principle and to ensure fair treatment of all customers, an RNG supply rate offered by a supplier other than the Distributor should be adjusted to account for any additional service costs incurred by the Distributor. It would not be fair or in compliance with the provisions of the Act for potential lost revenue associated with some component of a direct-purchase customer's tariff other than supply to be recovered from the rest of the Distributor's customers.

5. With respect to the third topic identified by the Régie:

Cost elements that should be taken into account in the RNG supply price

According to ACEFQ, determination of the RNG supply price to be offered by a producer or broker directly to a direct-purchase customer does not fall within the authority of the Régie, subject to the preceding comments concerning the potential impact of this supply method on costs relating to the other components of the tariff applicable to a Distributor's customer.

The RNG supply price offered by the Distributor, meanwhile, must cover all acquisition costs, including the potential cost of connecting to the RNG production facility network.

ACEFQ wishes to mention at this stage in the process that it does not share the position expressed by the Régie (D-2018-052, paragraph 36) in that the RNG production method is not a topic relevant to the review of this file.

Since the calculation of the acquisition price of RNG directly influences determination of the RNG tariff applicable, and insofar as the production cost of RNG is directly related to production facility capacity, processing the file before the government has adopted a policy statement concerning RNG production will have a direct impact on the profitability (or non-profitability) of some RNG production facilities and consequences in terms of the latitude available to the legislator to designate a particular production method as desirable for the development of this production industry, notably with regard to its territorial implementation in outlying or remote regions.

Reciprocity elements between a service provided by a broker and a service provided by Énergir

Insofar as the supply of RNG involves serving customers located in the Énergir franchise through its distribution network, ACEFQ is of the opinion that no costs associated with any component of a customer's tariff other than supply should vary based on whether the customer's RNG needs are met by the Distributor or through direct purchase from another supplier.

On the other hand, an RNG supplier through direct purchase should be required to contribute, at the established rate per m³, to any supply cost element incurred by the Distributor in addition to its acquisition cost, including production facility connection costs, in any situation where a broker or third-party supplier is supplying a customer through Énergir's distribution network.

In a situation where a customer purchases its RNG directly from a producer (and obtains its RNG supply via an infrastructure other than that of the Distributor) but is also connected to the distribution network, a contribution should still be applicable in the event the costs associated with an inventory difference (surplus of purchases over sales) had to be recovered from all customers as a group. Similarly, a customer having the option to obtain its RNG supply either through the Distributor or through direct purchase should be bound by commitments to the Distributor concerning the contracted volumes including prior notice of withdrawal of service corresponding to the RNG lifespan recognized by the Régie where applicable.

Conditions governing customer eligibility for RNG tariff

Supplying RNG to customers connected to the Distributor's network necessarily implies that the Distributor plans its purchases based on the volumes deliverable. To maintain relative equilibrium between the RNG purchases to which the Distributor commits and the volumes sold, and to prevent the accumulation of differences translating into stranded costs to be recovered, ACEFQ finds that all customers wishing to participate voluntarily in the RNG service provided by the Distributor should be required to undertake contractually to cover the defined volume costs over a sufficient period of time (initially two years) to support the Distributor's adoption of appropriate inventory management practices.