

À l'attention de Luca Ascoli
Director of Government Finance Statistics
Directorate D - EUROSTAT

Montrouge, le 07 juin 2023
N°2023_13860_DG75-G401

Objet : Request for advice on the subscription of the French State to the EDF capital increase in March 2022.

Following INSEE's letter of 17 April 2023, we are sending you a request for ex-post advice under Article 10 of Council Regulation 479/2009.

As a follow-up to our discussions on government transactions related to the state-owned company Electricité de France (EDF), we would like to ask your opinion on the treatment of the capital increase in which the State participated in the first quarter of 2022. Below is a description of the operation and a proposal for treatment. We thank you in advance for your opinion.

1) Presentation of the operation

EDF capital increase (March 2022)

The public and listed corporation EDF carried out a capital increase of EUR 3.2 billion in the March 2022. EDF indicated (source: EDF, press release of 18 March 2022) that the capital increase would contribute to:

- "finance the Group's development operations ;
- strengthen the Group's credit rating and its access to the financing market ;
- reinforce the Group's financial flexibility".

The share price was set at EUR 6.35, with preferential subscription rights¹.

EDF's capital increase took place against the backdrop of a year 2022 marked by significant losses, firstly due to technical problems encountered in several reactors, which led to the shutdown of a substantial proportion of the nuclear fleet, and secondly due to the 2022 energy measures.

The capital increase was accompanied by recourse to debt; with the announcement of the conclusion of credit lines for an amount of 10.3 billion euros on 16 March 2022 (source: EDF, press release of 16 March 2022).

¹ The subscription ratio was set at 2 new shares for 13 existing shares. The theoretical value of the preferential subscription rights stood at €0.34 euros, this theoretical value being calculated based on the share price on 16 March (€8.86).

The public administrations subscribed to the capital increase up to their 84 % stake, i.e. EUR 2.7 billion, in accordance with the State's commitment communicated in March 2022 (source: Agence des Participations de l'Etat, press release of 18 March 2022 ; EDF, press release of 18 March 2022): "the State is thus contributing, as a prudent long-term shareholder, to securing EDF's financial position and its short- and medium-term financing capacity, and enabling the company to pursue its profitable development strategy in the context of the energy transition".

The capital increase was also subscribed by private investors (0.5 billion euros). The market demand was 1.4 billion (source: EDF, press release of 5 April 2022).

Other EDF-related operations in 2022

In 2022, the Government introduced three measures aimed at limiting the prices offered by electricity suppliers:

- a reduction in the domestic tax on final electricity consumption (TICFE);
- a price cap on the increase in regulated electricity sales tariffs (TRVe) ;
- an allocation of an additional volume of regulated access to historical nuclear energy (ARENH+).

The reduction in the rates of the TICFE benefits all suppliers and customers and results in a reduction in government revenue. On the other hand, the measures to raise the ARENH volume (ARENH+) and to freeze the increase in regulated electricity sales tariffs affect EDF in particular.

In June 2022, the French State also received €0.8 billion in dividends for the 2021 result from EDF that was very high (€5.1 billion), in the form of shares with a nominal value of €7.44. This amount constitutes the balance of the 2021 dividends, of which an interim dividend of €693 million was paid at the end of December 2021, also received in the form of shares.

On 6 July 2022, the Government confirmed (source : Prime Minister E. Borne's policy speech) its intention to acquire the entire share capital of EDF, and then specified that it planned to offer a price per share of €12, and a price per convertible bond (OCEANE) of €15.64 [later updated to €15.52], for a total estimated cost of €9.7 billion.

On 22 November 2022, the Autorité des marchés financiers (AMF) issued a compliance decision on the takeover bid. At the end of 2022, the State had acquired 4.6 billion euros of shares and convertible bonds.

2) Recording in National Accounts

Recording of the regulated electricity sales tariffs price cap

The regulated electricity sales tariffs concern part of the electricity market in France and are offered by EDF and the local distribution companies. EDF and local distribution companies offering regulated sales tariffs were obliged to align themselves with the blocked tariff, and can then benefit from a catch-up period². If this period proves insufficient, they are ultimately compensated by the State to the extent of their shortfall compared with a situation without the shield.

In the general government account, we recorded a subsidy on products for the price cap, representing the difference between the regulated tariff that would have been set in the absence of freezing and the frozen tariff. It is recorded at the time of freezing in exchange for an account payable from the State to the suppliers. The catch-up period, which had not begun in 2022, will be treated symmetrically, if implemented, as a tax on products in return for a reduction in the State's payable. The compensation, if it occurs in a later period, is

² In the case of EDF, no compensation was initially foreseen, then a compensation principle was added in the Initial Finance Law 2023 (discussed in 2022).



considered as a financial transaction corresponding to the payment of the State's payable to suppliers.

In 2022, the cost for the electricity price cap was estimated at 3.0 billion euros for the freezing of the TRVe rates, 70% of which relating to EDF (€2.1 billion).

Recording of the ARENH+

The regulated access to historical nuclear electricity (ARENH) system was set up in 2011 in application of the law on the new organisation of the electricity market (NOME). It allows so-called « alternative » suppliers to access the electricity produced by EDF's nuclear power plants (historical, i.e. in service at the time of the NOME law's promulgation). It aims to encourage competition in the electricity supply market while ensuring that EDF is remunerated to cover its production costs. In 2022, before the energy measures, the volume of ARENH subscribed by alternative suppliers was set at 100 TWh.

As part of the measures decided to mitigate the rise in electricity prices, the Government decided to raise the 2022 ARENH volume to 120 TWh. The "specific terms and conditions for the allocation of an additional volume of electricity that may be allocated in 2022, on an exceptional basis, within the framework of regulated access to historical nuclear electricity (ARENH)", defined in Decree no. 2022-342, provide that EDF will sell to alternative suppliers a volume of 20 TWh of electricity at a price of €46.2/MWh, and buy back the same volume from the same suppliers at a higher price (price equal to the average of the quotations on the wholesale markets, as recorded between 2 and 23 December 2021, i.e. €256.98/MWh according to the EDF website).

At the same time, the beneficiary suppliers were required to transmit "to the *Commission de régulation de l'énergie* the data and information that it specifies, necessary to monitor the passing on of these transfers to their end customers". The measure thus results in a cash flow between EDF and the alternative suppliers applying for ARENH+, which the suppliers are supposed to pass on to consumers.

We recorded this price cut as a subsidy on products, paid by the State, in return for the reduction of its stake in the public company that finances the subsidy. The expenditure rearranged to the 2022 general government account for this scheme amounts to €8.2 billion.

Capital increase

On the one hand, we note that the capital increase comes at a time when the company is making significant losses and shows a strong need for liquidity. These losses of EDF come partly from the price cap measures, which we record as general government expenditure and which should not be double counted. They exceed in amount these factors alone: the group's share of net income, at -17.9 billion euros in 2022, remains negative after correction of the overall price cap effect (€10.3 billion).

On the other hand, the presence of private investors provides additional information. The capital increase has met a strong demand according to the elements communicated by EDF and the private shareholders have thus validated the share price (€6.35 plus 6.5 subscription rights³ for new entrants) as an attractive price from the point of view of market units: in other words, the investors expect a performance of the share that legitimises the proposed price.

We consider that the State's subscription to EDF's capital increase constitutes a borderline case under the rules of the ESA (in particular §.20.198) and the MGDD (Chapter 3.2). We have on the one hand the observation of losses, and on the other hand the observation of the participation of private investors. Given these two indicators, we indeed need objective elements to support the choice of treatment and to provide our users with indications that will help them understand the choices made in the national accounts.

3 Between 21 and 30 March, subscription rights traded at a value of between €0.31 and €0.40.



In the March 2023 notification, we recorded the participation of the State in the capital increase as a financial transaction, noting the following :

The participation of private investors is a sign that the State is in fact itself acting as a private investor in the transaction. This point is to be taken into account according to the ESA (20.198b), and the rules developed in the MGDD generally advocate recording capital injections in which private investors participate as share acquisitions.

We noted that there are important qualifications to the direct application of this rule. First of all, the MGDD, although quite affirmative on the case of private investors participating in an injection (in §24 of Chapter 3.2 as well as in Box 1 of the same chapter), indicates that injections are analysed on a case-by-case basis and specifies that the presence of private investors remains an "indicator" , and that these investors « must also bear similar risks and rewards to those borne by government » (Chapter 3.2; §29.b).

In general and in the particular case of EDF, the analysis of the sharing of the risks and benefits of the operation between the State and the private investors is complex. On the risk side in particular, we note that the State committed itself in March 2022 to support the capital increase and reaffirmed itself as a long-term supporter of EDF. In addition, the EDF share buyback project was mentioned by the candidate E. Macron during the presidential campaign, which fuelled speculation in the company's shares.

However, we consider that these points are not sufficient to rule out treatment as a financial transaction. The fact that the state is a long-term investor seems to us to be systematic, so that this statement does not seem to bring much additional information. Secondly, although the candidate announcements have led to speculative phases, we do not observe a clear increase in the share price following this announcement that would confirm the expectation of holding gains. Indeed, the conditions of the nationalisation were not fixed at the time of the capital increase (timing, price, etc.) and the nationalisation itself was not certain. Therefore, we consider that the symmetry between private investors and the State cannot be ruled out.

Finally, we interpret the capital injection test as a test of the value of the shares acquired. The participation of private investors is a form of validation of the market value of the shares acquired. Furthermore, in the context of the takeover bid, the EDF shares were valued by an independent firm (Finexsi). The firm proposes an estimate of the share price, based on a discounted cash flow approach (the method it has adopted as its principal method), between €7.17 and €10.59 per share.

In summary, we have chosen a financial transaction treatment because:

- we observe a participation of private investors ;
- we cannot rule out symmetry without making speculative assumptions about the behaviour of private investors ;
- the value of the share is in line with the independent valuation carried out by an independent valuation firm.

3) Request for advice

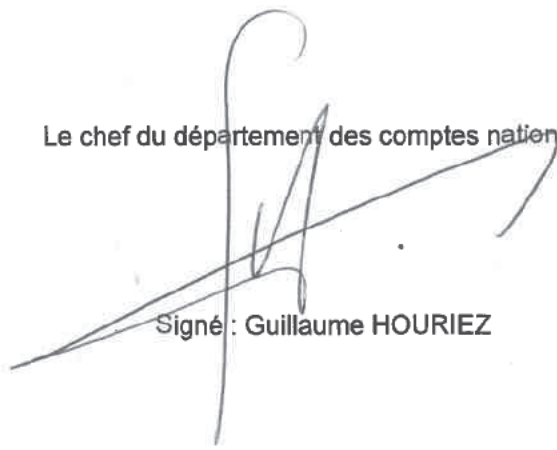
In the course of our discussions, we noted that Eurostat did not share this analysis on the capital increase. We therefore ask you what your analysis of the operation is and on what elements of our regulation you base your analysis.

Beyond this particular case, we would be interested in any elements allowing us to specify the analysis grid to be applied in cases where private investors participate in a capital increase, which will be useful for us and for our users in the analysis of future operations. In particular, we would be interested to develop the notion of symmetry between government and private investors, as well as the degree of priority given to exceptional losses (after high gains) over the presence of private investors.

We are at your disposal for any clarifications to be made in the description of the operation.



Le chef du département des comptes nationaux

A large, stylized handwritten signature in black ink, written over the typed text. The signature is fluid and cursive, with a prominent vertical stroke and a long horizontal stroke extending to the left.

Signé : Guillaume HOURIEZ

