

EFET

European Federation of Energy Traders

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WAIVER: THE FOLLOWING GENERAL AGREEMENT WAS PREPARED BY EFET EXERCISING ITS BEST DUE DILIGENCE. HOWEVER, EFET, THE EFET MEMBERS, REPRESENTATIVES AND EFET COUNSEL INVOLVED IN ITS PREPARATION AND APPROVAL SHALL NOT BE LIABLE OR OTHERWISE RESPONSIBLE FOR ITS USE AND ANY DAMAGES OR LOSSES RESULTING OUT OF ITS USE IN ANY INDIVIDUAL CASE AND IN WHATEVER JURISDICTION. IT IS THEREFORE THE RESPONSIBILITY OF EACH PARTY WISHING TO USE THIS GENERAL AGREEMENT TO ENSURE THAT ITS TERMS AND CONDITIONS ARE LEGALLY BINDING, VALID AND ENFORCEABLE AND BEST SERVE TO PROTECT THE USER'S LEGAL INTEREST.

General Agreement

Concerning the Delivery and Acceptance of Electricity

Between

___Electrabel S.A._____

having its registered office at ___Regentlaan 8, 1000 Brussels, Belgium_____

___*("[abbreviation of name]")*_____

and

___Société Nationale d'Electricité et de Thermique_____

having its registered office at ___85 Avenue Victor Hugo, 92563 Rueil Malmaison Cedex France_____

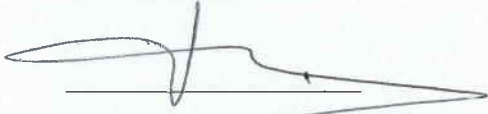
___*("[abbreviation of name]")*_____

(referred to jointly as the "**Parties**" and individually as a "**Party**")

entered into on ___January 16, 2002_____ (the "**Effective Date**")

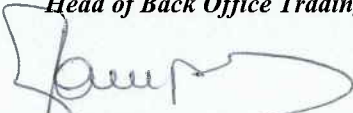
Executed by the duly authorised representative of each Party effective as of the Effective Date.

Electrabel S.A.



Jean-Pierre Van Briel

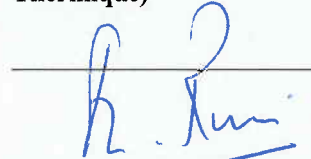
Head of Back Office Trading & Portofolio Management



Katja Mampaey

Credit Controller

SNET (Société Nationale d'Electricité et de Thermique)



Guyon RAIN

Directeur Général Délégué

EFET

European Federation of Energy Traders

Election Sheet to the General Agreement

with an Effective Date of January 16, 2002

between Electrabel S.A. and SNET (Société Nationale d'Electricité et de Thermique)
("Party A") ("Party B")

PART I: CUSTOMIZATION OF PROVISIONS IN THE GENERAL AGREEMENT

§1

Subject of Agreement

§ 1.2 Pre-Existing Contracts: [X] § 1.2 shall apply and the following shall be added at the end of §1.2:
"A list of such Pre-Existing Contracts is attached to this Election Sheet as Annex 4. It being understood by the Parties that such list is not exhaustive."

§2

Definitions and Construction

§2. 2 Inconsistencies: The following sentence shall be added at the end of §2.2:
"The evidence of an Individual Contract contained in any recorded telephone conversation(s) and in any undisputed Confirmation shall prevail over any other oral or written evidence. If there is any inconsistency between any recorded telephone conversation(s) and any undisputed Confirmation then the former shall prevail."

§ 2.4 References to Time: time references shall be:
[X] as provided in the General Agreement (CET)

§3

Concluding and Confirming Individual Contracts

§ 3.4 Authorised Persons: [X] § 3.4 shall apply to Party A and Party B amended as follows:
"Authorised Persons: Individual Contracts may only be concluded between the authorised traders of the Parties. In the absence of prior notice to the contrary, each Party acknowledges and represents to the other that each of its employees purporting to represent, negotiate and enter into one or more binding Individual Contracts on such Party's behalf shall be deemed to be an authorized trader of that Party."

§7

Non-Performance Due to Force Majeure

§ 7.1 Definition of Force Majeure:

[X] § 7.1 shall apply as written in the General Agreement

§9
Suspension of Deliveries

In the fifth line of §9 the following shall be added between "three (3) Business Days" and "after sending a written notice":

"(but no earlier than five (5) Business Days in the case of any failure to provide, replace or increase any Performance Assurance)"

§10
Term and Termination Rights

§ 10.2 Expiration Date: [X] § 10.2 shall apply and there shall be no Expiration Date

§ 10.4 Automatic Termination: [X] §10.4 shall apply to Party A with termination effective immediately before the occurrence of a Material Reason described in §10.5 (c) (but without prejudice to the applicability of the grace period referred to in §10.5 (c) (iv))
[X] §10.4 shall apply to Party B with termination effective immediately before the occurrence of a Material Reason described in §10.5 (c) (but without prejudice to the applicability of the grace period referred to in §10.5 (c) (iv))

§ 10.5 (a) (i) Non Performance under the Agreement:

§ 10.5 (a) (i) shall be deleted and replaced by the following:

"(i) under the Agreement; provided, that in the case of a failure to pay, such failure is not cured within two (2) Business Days of a written demand, or, in the case of a failure to deliver a Performance Assurance, such failure is not cured within five (5) Business Days of a written demand, or, in the case of any other failure of performance, such failure is not cured within ten (10) Business Days of a written demand."

§ 10.5(b) Cross Default and Acceleration:

[X] § 10.5(b)(i) and (ii) shall apply to Party A and to Party B amended as follows:

The wording of § 10.5 (b)(i) and (ii) shall be deleted and replaced by the following:

(i) a default, event of default or other similar condition or event (however described) in respect of such Party, any Credit Support Provider of such Party (if such Party has a Credit Support Provider) or any Controlling Party of such Party (if such Party does not have a Credit Support Provider but has a Controlling Party) under one or more agreements or instruments relating to Specified Indebtedness of any of them (individually or collectively) in an aggregate amount of not less than the Threshold Amount (as specified for that Party under § 10.5 (b)(iii)) which has resulted in such Specified Indebtedness becoming due and payable under such agreements or instruments before it would otherwise have been due and payable; or

(ii) a default by such Party, such Credit Support Provider or such Controlling Party (individually or collectively) in making one or more payments on the due date thereof in an aggregate amount of not less than the applicable Threshold Amount (as specified for that Party under §10.5 (b) (iii)) under one or more agreements or

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instruments relating to Specified Indebtedness (after giving effect to any applicable notice requirement or grace period) and ;

(iii) for the purpose of (i) and (ii) above, the Threshold Amount shall be

for Party A : 15,000,000 €; and
for Party B : 15,000,000 €

§ 10.5(c) Winding-up/Insolvency/Attachment:

☒ § 10.5(c) (iv) shall apply and the applicable time period is 0 days except insofar a proceeding or petition referred to in §10.5 (c) (iv) has been instituted or presented by a third party against a Party in which case the applicable time period is 15 days.

§ 10.5(d) Failure to Deliver or Accept:

☒ § 10.5(d) shall apply

§ 10.5 Other Material Reasons: ☒ Material Reasons shall include those stated in the General Agreement and the following additional Material Reason:

Default under Specified Transaction

“The failure of a Party or its Credit Support Provider or Controlling Party to make one or more payments under any Specified Transactions (after giving effect to any applicable notice requirement or grace period).

For the purpose of this clause, “Specified Transactions” means (a) any transaction (including an agreement with respect thereto) now existing or hereafter entered into between one Party to this Agreement (or any Credit Support Provider of such Party or any Controlling Party of such Party) and the other Party to this Agreement (or any Credit Support Provider of such Party or any Controlling Party of such Party) which is a Commodity swap, Commodity option, Commodity cap transaction, Commodity floor transaction, Commodity collar transaction, agreement for the purchase, sale or transfer of any Commodity or any other Commodity trading or Commodity derivative transaction or any other similar transaction (including any option with respect to any of these transactions), (b) any combination of these transactions.

For the purpose of this Clause, “Commodity” means any tangible or intangible commodity of any type or description (including, without limitation, electric power, electric power capacity, petroleum, coal, natural gas, natural gas liquids, and by-products thereof).

§12

Limitation of Liability

§ 12 Application of Limitation: ☒ § 12 shall apply as written in the General Agreement and it is expressly acknowledged that the provisions of the limitation of liability set out in §12 have been specifically negotiated and agreed between the Parties.

§13

Invoicing and Payment

§ 13.2 Payment: initial billing and payment information for each Party is set out in § 23 of this Election Sheet

§ 13.3 Payment Netting: ☒ § 13.3 shall apply

§ 13.5 Interest Rate: the Interest Rate shall be the one month EURIBOR interest rate for 11:00 a.m. on the Due Date, plus three percent (3 %) per annum

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§ 13.6 Disputed Amounts:

☒ §13.6 (a) shall apply amended as follows:

“6. Disputed Amounts: Without prejudice to § 13.7 hereunder, if a Party, in good faith, disputes the accuracy of an invoice, it shall on or before the Due Date provide a written explanation of the basis for the dispute and shall pay:

(a) the full amount invoiced no later than the Due Date except in case of manifest error. If any amount paid under dispute is finally determined to have not been due, such overpayment shall, at the election of the owed Party, be credited or returned to it within five (5) business days of such determination, along with interest accrued at the Interest Rate from, and including, the date such amount was paid, to the other Party, but excluding, the date returned or credited.”

A new §3.7 shall be added to the Agreement as follows:

“7. Non compliant Invoices: In case the invoice does not comply with the European or National legislations, rules, regulations or any other binding order applicable to the Receiving Party, such Party shall inform without delay the Issuing Party of such non compliance and shall not be required to pay the amount in relation to the non compliant invoice until the Issuing Party provides it with a compliant invoice. Upon receipt of the compliant invoice, the Receiving Party shall pay without delay the Issuing Party the amount in relation to the said invoice and no Interest shall be due.”

☒ §13.6 (b) shall not apply.

§14

VAT and Other Taxes

§ 14.3 Withholdings:

☒ § 14.3 shall apply amended as follows :
in § 14.3 (b) (iii) third line, the reference to “Receiving” shall be changed to “Paying”.

§ 14.5 New Tax: A new §14.5 shall be added to the Agreement as follows:

“§14.5.1. If any New Tax is applicable to an Individual Contract, and the Buyer is, by the use of reasonable endeavours, able to obtain any available exemption or relief therefrom or is contractually able to pass the same through to or be reimbursed in respect thereof by, a third party, the Buyer shall pay or cause to be paid, or reimburse the Seller if the Seller has paid, such New Tax, and the Buyer shall indemnify, defend and hold harmless the Seller from and against any claims for such New Tax.

Unless otherwise specified in the terms of an Individual Contract, the provisions of this §14.5.2. shall only apply in respect of an Individual Contract if the period from the date on which the Parties concluded such Individual Contract pursuant to §3.1 (**Conclusion of Individual Contracts**) to the end of the Total Supply Period exceeds one year.

Where the provisions of this §14.5.2 apply in respect of an Individual Contract and:

- (a) a New Tax is imposed on a Party (the **Taxed Party**) in respect of the Contract Quantity; and
- (b) having used reasonable endeavours to do so, the Taxed Party is unable contractually to pass on the cost of the New Tax to the other Party or a third party; and

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- (c) the total amount of the New Tax that would be payable in respect of the balance of the total amount of Electricity to be delivered during the remainder of the total supply term (the **Remaining Contract Quantity**) shall exceed either (i) 50,000 EURO (or its equivalent in the currency of the applicable Contract Price), or (ii) 5 percent of the product of the Remaining Contract Quantity and the Contract Price;

then, the Taxed Party shall be entitled to terminate the Individual Contract subject to the following conditions:

- (d) the Taxed Party must give the other Party (the **Non-Taxed Party**) at least five (5) Business Days' prior written notice (the **Negotiation Period**) of its intent to terminate the Individual Contract (and which notice shall be given no later than 180 Days after the later of the enactment or the effective date of the relevant New Tax), and prior to the proposed termination the Taxed Party and the Non-Taxed Party shall attempt to reach an agreement as to the sharing of the New Tax;
- (e) if such agreement is not reached, the Non-Taxed Party shall have the right, but not the obligation, upon written notice within the Negotiation Period, to pay the New Tax for any continuous period it so elects on a calendar month to calendar month basis, and in such case the Taxed Party shall not have the right during such continuous period to terminate the Transaction on the basis of the New Tax; and
- (f) should the Non-Taxed Party elect to pay the New Tax on a calendar month to calendar month basis, upon giving five (5) Business Days' prior written notice to the Taxed Party of its election to cease payment of such New Tax, the Taxed Party shall again be subject to the provisions of this clause as if the New Tax had an effective date as of the date on which the Non-Taxed Party ceased payment of such New Tax;
- (g) if agreement as to sharing a New Tax is not reached and the Non-Taxed Party does not elect to pay the New Tax for any period of time within the Negotiation Period, the Individual Contract affected shall be terminated on the expiry of the Negotiation Period;
- (h) upon termination of the Individual Contract, the provisions of §11 (**Calculation of the Termination Amount**) relating to the calculation and payment of the Termination Amount shall apply but only in respect of the Individual Contract(s) so terminated, and for these purposes:
- (i) the Non-Taxed Party shall be understood to be the Terminating Party for the calculation of the Termination Amount; and
- (ii) the effect (if any) of the relevant New Tax on the calculation of the Termination Amount shall be expressly ignored, notwithstanding that any representative price quote(s) used for the purpose of such calculation takes into account in any manner the effect of such New Tax.

§15

Settlement of Floating Prices and Fallback Procedures For Market Disruption

§ 15.5 Calculation Agent: [X] the Calculation Agent shall be the Seller provided that the Seller is not in default. Should the Seller be in default, then the Buyer shall act as Calculation Agent. For the purpose of this clause, default shall have the same meaning as Material Reason in § 10.5.

§16

Guarantees and Credit Support

§ 16 Credit Support Documents:

Party A shall provide Party B with such Credit Support Document(s) as Party B may request it to provide from time to time. References to Credit Support Document in the Agreement shall mean a bank guarantee, a letter of credit or any other credit support agreement or instrument.

Party B shall provide Party A with such Credit Support Document(s) as Party A may request it to provide from time to time. References to Credit Support Document in the Agreement shall mean a

parent company guarantee, a bank guarantee, a letter of credit or any other credit support agreement or instrument.

§ 16 Credit Support Provider:

References to Credit Support Provider(s) in the Agreement shall mean any provider of a Credit Support Document as may be agreed between the Parties from time to time.

§17 **Performance Assurance**

§ 17.2 Material Adverse Change:

The following categories of Material Adverse Change shall apply to Party A:

- ☐ §17.2 (a) (Credit Rating), and the minimum rating shall be: _____;
- ☒ §17.2 (b) (Credit Rating of Credit Support Provider that is a Bank) and the minimum rating shall be A-/A3 as provided by Standard & Poor's or Moody's respectively;
- ☐ §17.2 (c) (Financial Covenants), and
 - the EBIT to Interest ratio shall be: _____,
 - the Funds From Operations to Total Debt ratio shall be: _____, and
 - the Total Debt to Total Capitalisation ratio shall be: _____;
- ☐ §17.2 (d) (Decline in Tangible Net Worth), and the relevant figure is: _____;
- ☒ §17.2 (e) (Expiry of Performance Assurance or Credit Support), and
 - ☐ the relevant time period shall be _____, or
 - ☒ no time period shall apply;
- ☒ §17.2 (f) (Failure of Performance Assurance or Credit Support);
- ☐ §17.2 (g) (Failure of Control & Profit Transfer Agreement);
- ☒ §17.2 (h) (Impaired Ability to Perform); and
- ☒ §17.2 (i) (Amalgamation/Merger)

The following categories of Material Adverse Change shall apply to Party B:

- ☐ §17.2 (a) (Credit Rating), and the minimum rating shall be: _____;
- ☒ §17.2 (b) (Credit Rating of Credit Support Provider that is a Bank) and the minimum rating shall be A-/A3 as provided by Standard & Poor's or Moody's respectively;
- ☐ §17.2 (c) (Financial Covenants), and
 - the EBIT to Interest ratio shall be: _____,
 - the Funds From Operations to Total Debt ratio shall be: _____, and
 - the Total Debt to Total Capitalisation ratio shall be: _____;
- ☐ §17.2 (d) (Decline in Tangible Net Worth), and the relevant figure is: _____;
- ☒ §17.2 (e) (Expiry of Performance Assurance or Credit Support), and
 - ☐ the relevant time period shall be _____, or
 - ☒ no time period shall apply;
- ☒ §17.2 (f) (Failure of Performance Assurance or Credit Support);
- ☐ §17.2 (g) (Failure of Control & Profit Transfer Agreement);
- ☒ §17.2 (h) (Impaired Ability to Perform); and
- ☒ §17.2 (i) (Amalgamation/Merger)

§18 **Provision of Financial Statements and Tangible Net Worth**

- § 18.1 (a) Annual Reports: ☒ Party A shall deliver annual reports to the extend that they are not available on www.electrael.com, or
☒ Party B shall deliver annual reports, or
☐ Party B need not deliver annual reports
- § 18.1(b) Quarterly Reports: ☐ Party A shall deliver quarterly reports, or
☒ Party A need not deliver quarterly reports, and
☐ Party B shall deliver quarterly reports, or

☒ Party B need not deliver quarterly reports

§18.2 Tangible Net Worth:

☐ Party A shall have a duty to notify as provided in §18.2, and the applicable figure for it shall be _____, or
☒ Party A shall have no duty to notify as provided in §18.2, and
☐ Party B shall have a duty to notify as provided in §18.2, and the applicable figure for it shall be _____, or
☒ Party B shall have no duty to notify as provided in §18.2

§19

Assignment

§ 19.2 Assignment to Affiliates:

☒ Party A may assign all (but not part only) of its rights and obligations in accordance with § 19.2
☒ Party B may assign all (but not part only) of its rights and obligations in accordance with § 19.2
provided that for both Parties the respective Affiliate does have its registered office in the same jurisdiction as the assigning Party or in any of the following countries: Germany, The Netherlands, United Kingdom, Luxemburg.

§20

Confidentiality

§ 20.1 Confidentiality Obligation: ☒ § 20 shall apply

§21

Representation and Warranties

The Following Representations and Warranties are made:

	by Party A:	by Party B:
§21(a)	☒ yes ☐ no	☒ yes ☐ no
§21(b)	☒ yes ☐ no	☒ yes ☐ no
§21(c)	☒ yes ☐ no	☒ yes ☐ no
§21(d)	☒ yes ☐ no	☒ yes ☐ no
§21(e)	☒ yes ☐ no	☒ yes ☐ no
§21(f)	☒ yes ☐ no	☒ yes ☐ no
§21(g)	☒ yes ☐ no	☒ yes ☐ no
§21(h)	☒ yes ☐ no	☒ yes ☐ no
§21(i)	☒ yes ☐ no	☒ yes ☐ no
§21(j)	☒ yes ☐ no	☒ yes ☐ no
§21(k)	☐ yes ☒ no	☐ yes ☒ no
§21(l)	☒ yes ☐ no	☒ yes ☐ no
§21(m)	☐ yes ☒ no	☐ yes ☒ no
§21(n)	☒ yes ☐ no	☒ yes ☐ no

§22

Governing Law and Arbitration

§ 22.1 Governing Law:

☒ § 22.1 shall apply as written.

§ 22.2 Arbitration:

☒ § 22.2 shall not apply as written but instead shall be as follows:
All disputes arising out of or in connection with the Agreement shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by three arbitrators appointed

in accordance with said Rules. The seat of the arbitration will be Paris, France, the arbitration will be conducted in the English language.

§23
Miscellaneous

§ 23.2 Notices, Invoices and Payments:

(a)	TO PARTY A:	ELECTRABEL S.A.
	Notices & Correspondence	
	Address:	Regentlaan 8 1000 Brussel Belgium
	Telephone No:	+32/2 213 54 67
	Fax No:	+32/2 519 29 12
	Attention:	Pascale Meuron
	Invoices	Trading Risk Control & Back Office
	Fax No:	+32/2 519 29 12
	Attention:	Didier Ramon
	Payments	Electrabel S.A. Trading Risk Control & Back Office
	Bank account details	Fortis Bank Brussels Acc. 210-0000706-79 Warandeborg 3 Swift GEBABEBB 1000 Brussel Belgium

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(a) **TO PARTY B:**

Notices & Correspondence

Société Nationale d'Électricité et de Thermique

Address:

85 avenue Victor Hugo
92563 Rueil Malmaison Cedex
France

Telephone No:

+ 33 (1) 47.52.39.53

Fax No:

+ 33 (1) 47.52.39.87

Attention:

M. Patrick PERISSE

Invoices

Fax No:

+ 33 (1) 47.52.39.76

Attention:

Philippe LEFAUCHEUX, Back office

Payments

Bank account details

BNP Paribas
3 place de la Défense
92800 Puteaux
France

account : 30004 01328 00010490361 04

SWIFT : BNPAFRPPPTX (account in Euro)

PART II: ADDITIONAL PROVISIONS TO THE GENERAL AGREEMENT

In Annex 1 (Defined Terms) to the General Agreement, the term "Tangible Net Worth" shall be amended as follows:

"Tangible Net Worth" means the sum of all paid up shareholder cash contributions to the share capital account or any other capital account of the Relevant Entity ascribed for such purposes of the Relevant Entity and any accumulated retained losses and intangible assets including, but not limited to, goodwill;

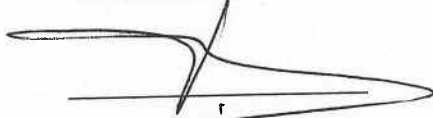
2. the term "Total Supply Period" shall be inserted and shall be defined as follows: "Total Supply Period" means, in respect of an Individual Contract, the Supply period agreed between the Parties

3. regarding the term "Affiliate", the definition as contained in Annex 1 to the General Agreement shall be deleted and the term "Affiliate" shall be defined by reference to Article 5.4 of the Council Regulation 4064/89 of 21 December 1989 on the control of concentrations between undertakings as amended by Council Regulation 1310/97.

Executed by the duly authorised representative of each Party effective as of the Effective Date.

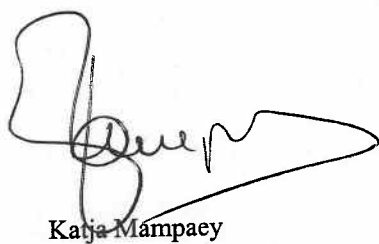
"Party A"

Electrabel S.A.



Jean-Pierre Van Briel

Head Back Office Trading & Portofolio Management

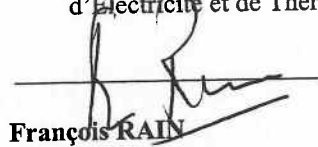


Katja Mampaey

Credit Controller

"Party B"

SNET (Société Nationale
d'Electricité et de Thermique)



François RAIN

Chief Executive Officer

Directeur Général *Delequin*

EFET

European Federation of Energy Traders

Annex 4 to the General Agreement

Pre-Existing Contracts

Deal Done Date	Buyer	Deal Ref Snet	Deal Ref Electrabel	Delivery / Ref Index	Qty (MW)	Start Date (inc.)	End Date (inc.)	Start Time	End Time	Nr of Days	Price (€/MWh)	Broker	Absolute Total Quantity (MWh)
15/01/2002	SNET		AGS705	French Hub	10	16/01/2002	16/01/2002	00:00	24:00	1	34,00	TFS	240
17/01/2002	ELECTRABEL		AGT899	French Hub	10	18/01/2002	18/01/2002	00:00	24:00	1	33,20	TFS	240
17/01/2002	SNET		AGU309	French Hub	25	1/02/2002	28/02/2002	00:00	24:00	28	32,76	TFS	16.800
17/01/2002	SNET		AGU340	French Hub	50	1/07/2002	31/07/2002	00:00	24:00	31	20,11	TFS	37.200
21/01/2002	SNET		AGV567	French Hub	45	22/01/2002	22/01/2002	00:00	24:00	1	27,00	TFS	1.080
22/01/2002	SNET		AGW096	French Hub	5	23/01/2002	23/01/2002	00:00	24:00	1	27,75	TFS	120
22/01/2002	SNET		AGW101	French Hub	10	23/01/2002	23/01/2002	00:00	24:00	1	27,50	TFS	240
22/01/2002	SNET		AGW106	French Hub	10	23/01/2002	23/01/2002	00:00	06:00	1	17,25	PREBON	60
22/01/2002	SNET		AGW557	French Hub	20	26/01/2002	27/01/2002	00:00	24:00	2	20,65	TFS	960
24/01/2002	SNET		AGX544	French Hub	15	25/01/2002	25/01/2002	00:00	08:00	1	20,00	TFS	120

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