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**By email**

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FROM [REDACTED] - Attorney-at-law  
REFERENCE 30637014 (70129991)  
DATE 27 June 2019  
YOUR REFERENCE ACM/UIT/507415  
  
RE Opinion ContourGlobal Bonaire B.V. on Draft Method Decision 2nd Regulatory Period

Dear Sir,

On behalf of ContourGlobal Bonaire B.V. (**CGB**) I herewith submit a preliminary opinion on the Draft Method Decision on electricity and drinking water in the Caribbean Netherlands 2020-2029 (the **Draft MD**). This is a preliminary opinion as the Draft MD does not yet provide for the WACC-method, and in the opinion of CGB, the MD is only complete when it includes the WACC-method. CGB reserves its rights to submit its opinion on the draft WACC-method – or the complete Draft MD including the WACC-method, as may be the case - when it is presented.

Nevertheless, CGB is eager to participate in the consultation process for the final method decision for the second regulatory period..

As you are aware, CGB is currently still awaiting the outcome of higher appeal proceedings against the production price for 2017, that has been based on the method decision for 2017-2019 (the **First MD**). To a large extent, the grounds for this higher appeal relate to the First MD and the way ACM has implemented the statutory assignment of article 2.5 of the Act in that First MD. As the Draft MD and the First MD are very similar, it is obvious that the concerns and objections that CGB has raised against the First MD, equally apply to the Draft MD. For efficiency reasons, CGB is reluctant to verbally repeat those concerns in this opinion but would rather refer to those earlier concerns and request ACM to accept these to be deemed repeated here. During our telephone conversation of 26 June, this approach was accepted by ACM.

The Draft MD provides for a regulation period of 10 years. CGB would prefer a much shorter

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regulation period, preferably 3 years and maximum 5 years. The reasons for this are that the WACC-method shall apply for 3 years; that the method decision in European Netherlands are limited to 5 years; and that the Draft MD has some new aspects that have not yet been tested in practice. CGB understands that a reason for ACM to propose a 10 year period is that the method decision qualifies as a policy rule that can be amended relatively easily in the interim. In the view of CGB it would be better first have a good view on the consequences for the local market of the current price regulation methodology before engaging into a 10 year methodology.

Most importantly, however, are CGB's concerns with respect to the investigation that is carried out by DNV-GL on the efficiency of sustainable power generation. CGB was not aware of this investigation taking place and has no knowledge on investigation methodology applied, the data that are used, the background of those data, the relevant (benchmark) criteria for the assessment, the envisaged manner in which the results may be included in the determination of the production price, comparable investigations in the world; DNV-GL's experience in this type of investigations. CGB is concerned that at a certain moment the investigation shall be concluded and presented, without CGB having been given the opportunity to advise or comment on the input and output of this investigation. CGB therefore requests to be provided with a draft investigative report and be allowed the opportunity to opine on this report prior to publication.

Please do not hesitate to contact me should you have any questions in relation to this.

Yours sincerely,  
Loyens & Loeff N.V.

