Report on “Profits of Energy Companies”
Conclusions and summary

Conclusions and follow-up

The Office of Energy Regulation of the Netherlands Competition Authority (hereinafter "NMa") carries out independent supervision of the energy market with the aim of ensuring that this market operates as effectively as possible. This supervision focuses on the energy companies. The regulated, monopolistic activities (hereinafter "the regulated activities") of these companies are a specific area of attention. These activities relate to the transmission of electricity and gas and are generally clustered within the network management subsidiary of the company. The regulated activities receive the NMa's special attention because consumers have to be protected if the operation of market forces is not possible.

The NMa has conducted research into the profits of the four largest regional energy companies:[1] Eneco Holding N.V., Essent N.V., N.V. Nuon and Delta N.V. Together these companies manage more than 90% of the regional energy networks in the Netherlands.

The following is a summary of the conclusions of the research:

1. The total gross profit of the energy companies researched grew from EUR 1.6 billion in 2003 to EUR 3.1 billion in 2005. The total net result grew from EUR 0.9 billion in 2003 to EUR 2.1 billion in 2005. This relates to activities both on the liberalised market and the regulated activities.
2. Through their regulated activities, the companies realised an annual gross profit of EUR 1.2 billion and a net result of EUR 0.8 billion. In 2004 and 2005, this amount remained constant, which means that the increase in profit can be attributed mainly to activities on the liberalised market.
3. On average, 50% of the total gross profit of the energy companies was realised through regulated activities.
4. Most of the net result realised through regulated activities (in other words, through the network manager) is paid out to the holding company in the form of a dividend. On average, 39% of the net result of the holding company is paid out to shareholders (provinces and municipalities).
5. On the basis of the regulatory system, which the NMa adopted for the first time four years ago, the NMa has already achieved savings of EUR 1.9 billion in the period from 2001 to 2007. This amounts to an average of approximately EUR 45 per customer with an electricity and a gas connection per annum with a transmission account of approximately EUR 470 per annum.
6. Through their regulated activities, the energy companies realised more than the standard return determined within the regulatory framework. This difference in return was caused by five factors. All these factors are allowed within the present statutory and regulatory framework. The difference in return was therefore realised lawfully.
7. The NMa was of the opinion that the effects of two factors (cost efficiency and tariff corrections), which have the effect of increasing returns, were consistent with the objectives of regulation. These effects which increase returns are therefore desired.
8. The effects which increase returns resulting from the other three factors are not consistent with the objectives of regulation (to this extent). These effects which increase returns are therefore entirely or

[1] The size of these companies differs considerably per activity (such as trade, production and supply).

partially undesired. These three factors: 1) different evaluation policies applied in external reporting guidelines, 2) the growth in volume and 3) the gradual return to the efficient cost level.

9. As a result of the three factors mentioned above, the energy companies researched in the years 2004 two 2005 realised an additional return of approximately EUR 393 million more on their regulated activities than the NMa deemed fair. The difference in return amounts to an average of approximately EUR 15 per connection per year. If a customer has an electricity and a gas connection, this amounts to approximately EUR 31 per consumer per year. What is important in this regard is that there are considerable differences between the four companies researched.
10. The NMa considers the difference of approximately EUR 31 too great. This does not automatically mean that the tariffs can be reduced by approximately EUR 31 per annum for the average consumer[2] in the near future. The effects which the three factors mentioned above have in increasing returns may differ, after all, in absolute terms per year. This does not detract from the fact that the unintended and undesired effect of increasing returns must be avoided in the future. In the short term, the NMa will analyse in more detail which measures are necessary for this. In this regard, the NMa will continue to strive to achieve an optimal balance between a price for consumers which is not too high, on the one hand, and security of supply, on the other hand.
11. Partly as a result of the returns realised on regulated activities, the energy companies researched have sufficient financial means to make the necessary investments in the network. This is confirmed by the energy companies. As was concluded earlier, it appears that the network managers pay out almost their entire net profit to the holding company. In the future, within the framework of independent network management, the financing of (replacement) investments may emerge as an area requiring attention.
12. Finally, the amount of time required for the research is in itself an indication that the (composition of the) profits, in so far as these are realised through regulated activities, cannot be determined quickly and effectively by the NMa, despite the co-operation of the four energy companies.

The above conclusions result in the following steps to be taken by the NMa:

1. The NMa will recommend to the Minister of Economic Affairs that the further development of the Independent Network Management Act [*Wet Onafhankelijk Netbeheer (WON)*] should include provisions which make it possible to obtain insight into the (composition of the) profits of the energy companies more quickly and effectively, in any event with regard to the regulated activities.
2. Within the framework of independent network management, the NMa will conduct further research into whether the present provisions with regard to dividend payments, combined with the existing governance structure within the holding companies, are adequate to guarantee future necessary investment in the networks.
3. The NMa will announce shortly which measures are most effective in preventing undesired effects which increase returns from occurring again in the future. If amendments to legislation are necessary, the NMa will make proposals in this regard to the Minister of Economic Affairs.
4. In future, the NMa will provide insight periodically, namely at the end of each regulatory period, into the level of the profits realised through the regulated activities.

Background to the research

The NMa had various reasons for embarking on this research:

[2] An average customer has a single electricity and a single gas connection.

- *Political and public discussion.* A political and public discussion arose with regard to the level of the profits of vertically integrated energy companies (energy companies which carry out production and supply activities, as well as network management tasks). The central issue in these discussions was whether these energy companies realise these profits at the expense of consumers. The NMa, as an independent regulator, must ensure that confidence in the energy sector is maintained. For this reason, the NMa regards it as its task to ensure that this discussion is conducted on the basis of objective facts.

- *Reports from network managers.* During the regulatory period, network managers reported that tariff regulation by the NMa offers too little financial scope for future investments. Security of supply is an important objective of regulation. For this reason, the NMa considers it necessary to determine whether tariff regulation offers network managers sufficient scope to realise a fair return. The idea behind this is that sufficient financial means must be available to enable them to invest in the quality and capacity of the network.

- *Evaluation of the regulatory system.* Four years ago (in 2003) the NMa adopted its present regulatory system for the regulation of the tariffs of network management activities. This took place through the adoption of method decisions[3] and on the basis of two agreements[4] between the director of the Office of Energy Regulation (hereinafter "DTe"), the legal predecessor of the present Board of the NMa, and the energy companies. Through its regulatory activities, the NMa aims to realise an optimal balance between a fair price for consumers and security of supply. In the past, DTe has indicated that this system of rules and agreements would later be evaluated with regard to its effectiveness, since it is never possible to determine fully beforehand whether its implementation will have the intended results. Previously research was conducted to establish the extent to which regulation has resulted in savings on the part of consumers. These savings were estimated at EUR 1.9 billion for the period from 2001 to 2007. This corresponds to an average amount of approximately EUR 45 per consumer per year.[5]

  This research focuses on whether the energy companies realise a return which the NMa deems to be fair. This research started last year because the new regulatory period for the regional electricity and gas network managers commences in 2008. Possible improvements in the regulatory system, which result from this research, can be taken into account in the method decisions which the NMa will adopt in relation to these network managers at the latest by the end of 2007.

Aim of the research

The primary aim of the research is to determine whether the profit from regulated activities[6] corresponds to the return which the NMa deems reasonable (research question 4). To answer this question, it is first necessary to obtain insight into the energy company as a whole. For this reason, the extent, source and application of the profit of the energy companies as a whole was first determined (research questions 1 to 3).

---

[3] Reference 100947-82 (electricity) and 101858-67 (gas). These method decisions can be obtained from the website of NMa's Office of Energy Regulation (www.dte.nl).
[4] This is the Agreement between the Director of DTe and the regional electricity grid managers in relation to the regulation of electricity grid tariffs for the period from 2001 up to and including 2006 of 26 May 2003 and the Agreement between the Director of DTe and the regional gas network managers in relation to the regulation of gas transmission tariffs for the period up to and including 2007 of 3 November 2003. These agreements can be obtained from the website of NMa's Office of Energy Regulation (www.dte.nl).
[5] For consumers with both an electricity and a gas connection.
[6] This relates to the activities referred to in section 16 of the Electricity Act of 1998 and section 10 of the Gas Act.

Following this, consideration is given to whether the profit from the regulated activities is fair (research questions 5 to 7).

The following research questions are answered:

1. What is the extent of the profits of the energy companies?
2. What is the source of these profits? Do they originate from activities on the liberalised market or from regulated activities?
3. What is done with these profits? How are they used?
4. Does the profit from regulated activities correspond to the return which the NMa 'deems reasonable'? If not, what is the difference?
5. Are the network managers able to realise an adequate return within the framework of the present regulatory system to enable them to continue investing?
6. Do the network managers realise so much profit that the conclusion must be drawn that in relative terms consumers pay too much?
7. Do the findings and conclusions drawn in relation to the above questions have consequences for the chosen method of regulation?

The research was carried out in two phases. In phase 1 (September 2006 to January 2007), the NMa gave preliminary answers to the research questions in cooperation with an independent firm of accountants. The most important preliminary conclusions were published.[7] In phase 2 (February to April 2007), the information supplied was verified and specific parts were substantiated further by the energy companies. Despite the cooperation of the companies, acquiring the necessary information proved difficult and required considerable time throughout the process.

The following should also be noted with regard to the research. The NMa requested data from the energy companies for the years 2003, 2004 and 2005.[8] The data for all energy companies for the year 2003 appeared to be incomplete and, if the data was not immediately available, it was difficult to obtain. For this reason, only the data for the years 2004 and 2005 were used to answer research questions 4 up to and including 6. In addition, the results for the four energy companies must be reported as aggregated figures. The results in relation to the regulated activities, however, are presented individually per energy company. Finally, it emerged that considerable differences may exist between the energy companies. Where relevant, these differences are stated and explained.

Answering the research questions

Question 1) What is the extent of the profits of the energy companies?

The four energy companies together realised a constant turnover of approximately EUR 16.5 billion a year in the years researched. This turnover relates to activities on both the liberalised and the regulated markets. However, the gross profit[9] and the net result[10] of the energy companies almost doubled in the same period.

---

[7] See the news bulletin in this regard of 13 February 2007 on NMa's website (www.nmanet.nl) and the website of NMa's Office of Energy Regulation (www.dte.nl).

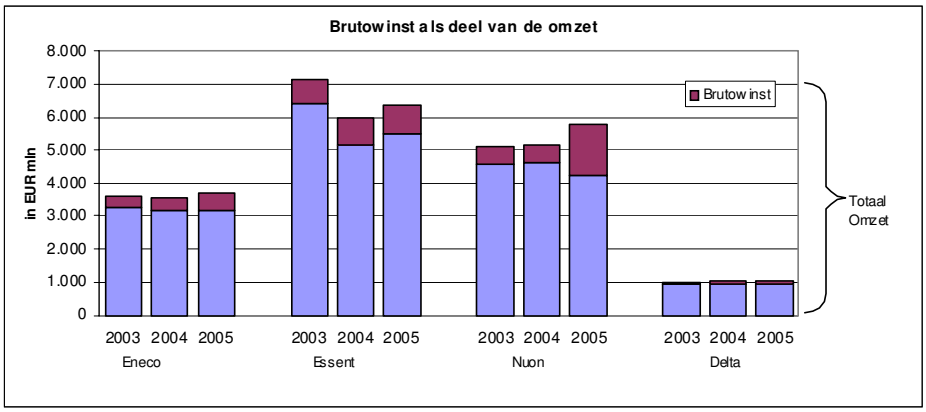
[8] NMa also requested data for 2006. However, at that moment the energy companies were in the process of closing their financial accounts for 2006. As a result only Essent was ultimately able to provide data for 2006. For this reason, this year has not been included in the analysis.

[9] The gross profit (EBIT) consists of the compensation paid to providers of debt capital (through interest) and shareholders' equity (dividend and/or additions to the reserves), as well as corporation tax.

[10] The net result is the gross profit minus interest and (corporation) tax.

The combined gross profit of the energy companies researched grew from EUR 1.6 billion in 2003 to EUR 3.1 billion in 2005. The total net result grew from EUR 0.9 billion in 2003 to EUR 2.1 billion in 2005. Figure 1 shows the gross profits and turnover for each energy company for the years 2003, 2004 and 2005.

Figure 1 -Turnover and gross profit of the energy companies researched in the period 2003-2005



	Gross profit as part of turnover		
		Gross profit	
in EUR millions			Total turnover

Opmerking [JRE1]: NB. Verandering kommas in punten.

Opmerking [A2]: Logisch!

At 39%, Essent accounts for the largest part of the combined turnover of the energy companies for the three years (2003, 2004 and 2005). Nuon, Eneco and Delta account for 33%, 22% and 6% of this turnover respectively.

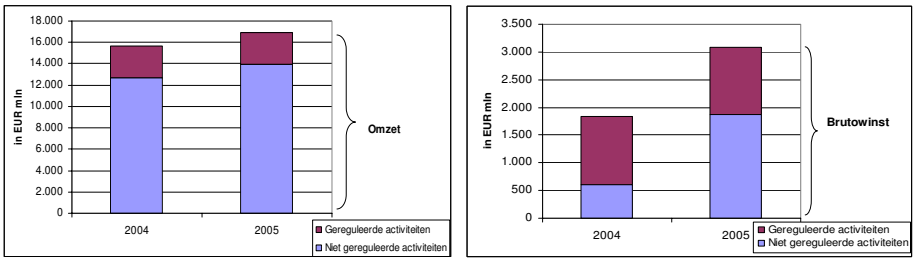
Question 2) What is the source of these profits? Do they originate from activities on the liberalised market or from regulated activities?

An important question which follows from this is the extent to which the reported profits result from the regulated activities. The NMa's supervision of these activities, after all, is of special importance because consumers have no freedom of choice in this regard.

The figure below shows that approximately 18% (approximately EUR 3.0 billion per annum) of the total turnover of the four energy companies is generated by regulated activities. In addition, an average of 50% of the total gross profit (annually approximately EUR 1.2 billion)[11] is realised from regulated activities. For this reason it can be concluded that the regulated activities make an important contribution to the total profit of the energy companies. The relatively high contribution to the total return of the energy companies can be explained by the capital-intensive nature of these network activities. The network, after all, represents a considerable capital; possessing considerable capital (assets) increases the risk premium, which also results in a higher desired return.

[11] Calculated for the period 2004 to 2005.

Figure 2 - Combined turnover and gross profit of the energy companies and the share of this attributable to the regulated activities in 2004 and 2005



in EUR millions			x EUR millions		
		Turnover			Gross profit
		Regulated activities			Regulated activities
		Non-regulated activities			Non-regulated activities

Furthermore, it appears that the average gross profit from regulated activities for the years 2004 to 2005 has remained almost the same. The net result of these activities amounts to approximately EUR 0.8 billion and the gross profit to approximately EUR 1.2 billion. The profit for the regulated activities is and has remained constant. The increase in profit reported under question 1 can be attributed particularly to activities on the liberalised market.

In addition to contributions from regulated activities amounting to 50% of total gross profit, approximately 18% of gross profit can be attributed to production, trade and supply activities and the remainder (32%) can be attributed to other activities, such as heating and cable activities and other non-regulated activities.[12]

Question 3) What is done with these profits? How are they used?

The following relevant question relates to the way in which these profits are used. With regard to the net result, these profits can be added to the company's shareholders' equity or can be paid out to shareholders. The decision in this regard rests with the shareholders. In general, the choice is made on the basis of the company's financing requirements (for instance, for new investments) and the return required by shareholders.

The four energy companies researched pay out an average of 39% of the net result per annum to the shareholders in the form of a dividend. Furthermore, the NMa notes that the net result of the network manager within the energy company is paid out almost entirely to the holding company in the form of a dividend.

[12] Calculated for the years 2004 and 2005.

Question 4) Does the profit from regulated activities correspond to the return which the NMa 'deems reasonable'? If not, what is the difference?

Extent of the difference

The regulated activity relates to a public monopoly. For this reason, the NMa sets maximum tariffs for these activities. The legislator has determined that the objective in this regard is that a return may not be realised for these tasks which is higher than that which is usual in economic terms (a 'fair return'). With regard to the question as to what a fair return is for these regulated activities, the NMa takes various aspects into account. On the one hand, it is important that the profits are not too low, since this jeopardises security of supply. On the other hand, the profits may not be too high, since consumers may then possibly pay too much for these activities.

In its regulatory system, the NMa has therefore developed a standard for determining a fair return[13]. This standard (the 'standard return')[14] is based on the principle that grid managers must provide sufficient compensation for the amount invested (in the company's assets) to the providers of equity and debt capital. Implicitly, this means that sufficient profit must be generated to carry out the necessary investments without the consumer having to pay too much. The standard applied by the NMa is the WACC (weighted average cost of capital) and the standard return is the WACC multiplied by the standardised asset value. The WACC may be regarded as the compensation which must be paid to the providers of capital to ensure that they remain willing to invest, given the risk profile of the activities. The standardised asset value may be regarded as the financial value attributed to the networks.

Table 1 shows the standard return for the regulated activities and the actual reported gross profit. In the years 2004 and 2005, the companies researched jointly generated EUR 595 million (approximately 32%) more gross profit than the standard return in accordance with the regulatory method. The NMa has concluded that for the years from 2003 to 2005,[15] the variance between the gross profit and the standard profit was as high for each year.

Explanation of the difference

The above results give rise to the question as to how the difference between the standard return, determined on the basis of regulation, and the actual return on the regulated activities can be explained. The NMa also put this question to the energy companies. It emerged from the answers given to this question by the energy companies that the difference could be attributed fully to factors and circumstances which are permitted within the existing statutory frameworks and the present regulatory method. An important conclusion of this research is therefore that the profits of the regulated activities were obtained lawfully.

The factors which explain the difference are described below. The extent to which each factor contributes to the difference in the return is provided as a percentage.[16] The percentages stated differ considerably from one company to the next, for instance due to the fact that the companies researched differ from each other with regard to their size, the ratio of electricity to gas per company differs and the fact that the regulatory method

---

[13] This is set out in the method decisions which NMa is required to adopt in accordance with section 41(1) of the Electricity Act of 1998 and section 81(1) of the Gas Act. See, for instance, the method decisions for the third regulatory period of the regional electricity grid managers with reference number 102106-89 (see www.dte.nl).
[14] Section 41(3) of the Electricity Act of 1998 and section 81(2) of the Gas Act.
[15] In the case of Nuon, only the years 2004 and 2005 were analysed.
[16] The breakdown is drawn up together for electricity and gas as a total for each company.

was not designed for the purpose of analysing differences in profit. For this reason, the NMa has rounded off these percentages in Table 1 to the nearest multiple of 5%.

Table 1 - Difference between the gross profit and standard return (amounts in EUR millions) and explanatory factors as a percentage of the difference in the returns (rounded off to the nearest multiple of 5%)

	2004 and 2005 combined
Gross profit of regulated activities	2,441
Standard return (regulated asset value * WACC)	1,846
Difference in return	**595**
	Percentage of the difference in return
1. Cost efficiency	5%
2. Corrections by the NMa	25%
3. Growth in volume	25%
4. Different valuation policies in the external reporting guidelines	30%
5. Gradual return to the efficient cost level	15%
Total	100%

Assessment of desired differences

The table above shows that the difference between the realised return and the standard return is explained by five factors. All the factors are allowed within the existing statutory frameworks (the Electricity Act of 1998 and the Gas Act) and the present regulatory system. Due to the extent of the difference, it is relevant to ask whether the effects of these factors which increase the return are in line with the objectives of the present statutory framework and regulatory system. These frameworks aim to ensure that an optimal balance is achieved between a fair price for consumers (returns which are not too high), on the one hand, and security of supply (returns which are not too low), on the other hand.

When the regulatory system was designed, it was not possible to predict with certainty beforehand whether the intended effect would be achieved and/or whether undesired side-effects may occur. It is therefore important to assess whether the intended effects have been realised. The NMa has indicated below the extent to which the effects on returns resulting from this were intended and accordingly whether they are or are not desired.

1. Cost efficiency: the effect of increasing returns due to this factor is intended and desired. If an energy company outperforms the x factor, it deserves to be rewarded (temporarily) for this. This reward provides an incentive to operate efficiently which is lacking in the case of a normal monopolistic activity. Furthermore, this reward is only temporary; the difference between the gross profits and the standard return is (partially) creamed off in the following regulatory period in the form of a higher x factor. The temporary reward which the network managers receive if they outperform the x factor gives the network managers an incentive to perform better than expected and (in time) therefore results in lower tariffs for consumers.
2. Corrections by the NMa: this relates to corrections which the NMa makes when it determines the regulated maximum tariffs each year. These corrections, if applicable, are determined for each company

individually. The returns realised as a result are entirely in line with what was intended. The effects on the return resulting from this factor are therefore desired.

3. Growth in volume: this factor is the consequence of the provisions of the Electricity Act of 1998 and the Gas Act, since a choice was made in this respect for tariff regulation and not for turnover regulation. The idea behind this is that the companies themselves are responsible for any decisions with regard to investments in expansion as a result of a growth in volume. However, the increase in the return resulting as an effect of a growth in volume is so great that the question arises as to whether it is desired that energy companies should be allowed to retain the (full) return. A nuance in this regard is appropriate, namely that in addition to the positive effect which an increase in volume has on returns, a negative effect is also possible as a result of a fall in volume.[17] If it emerges that the companies permanently only realise higher returns as a result of a growth in volume, the NMa does not deem this to be in line with the objectives of the existing statutory and regulatory frameworks. In addition, the NMa is of the opinion that the extent of the effect of this factor on the returns in the years researched is too great and undesired. The NMa will shortly announce which measures have to be taken to ensure that a growth in volume does not permanently result in higher profits than those intended by the NMa. An amendment to legislation may be necessary for this.
4. Different valuation policies in external reporting standards: these differences arose due to the fact that the Regulatory Accounting Guidelines differ from commercial reporting guidelines. The Regulatory Accounting Guidelines were drawn up so that energy companies could be compared to each other because different depreciation terms are used for assets in commercial valuation policies and in accordance with commercial accounting standards (such as NL-GAAP, as compared to IFRS) companies may use different valuation policies from year to year. A substantial part of the difference between the standard return and the actual return realised through the regulated activities can be explained by the differences between the external reporting standards. As in the case of the other factors, this factor is also allowed within the regulatory system. However, the fact that these differences have such substantial effects on the return on The regulated activities is not in line with what was intended, in the NMa's opinion, and is therefore undesired. The NMa will shortly announce which measures can be taken to counter this. Naturally the NMa will take as its point of departure the requirement that the financial data relating to the energy companies must be comparable.
5. Gradual return to the efficient cost level: this factor relates to the fact that the energy companies have an entire regulatory period to ensure that they operate more efficiently. The efficient cost level only has to be achieved by the end of the period. This difference is desired in the sense that companies must be given the time to implement changes or to reduce their costs to the intended efficient costs level without their returns falling to a level below the standard return. After all, if the latter situation were to occur, it would jeopardise security of supply. However, in practice it appears that companies are apparently able (or have been able) to reduce their costs quicker than expected and, as a result, this factor has contributed to a considerable degree to the fact that the return realised exceeds the standard return. This is not in line with the NMa's intention and is therefore undesired. After all, the aim of regulation is to ensure that a significant portion of improvements in efficiency are passed on to consumers in the form of lower tariffs. The NMa will shortly announce which measures can be taken to counter this.

In the light of the above, the NMa concludes that approximately one third of the return realised in excess of the standard return (as a result of the factors of cost efficiency and correction by NMa) are in line with the

[17] The regulatory method has been drawn up in such a way that any changes in volume are not immediately translated into a change in revenues, but only result in a change in revenues in the following regulatory period due to a delayed effect. This policy means that the energy companies are not immediately penalised if a fall in volume occurs for costs with a relatively fixed character.

NMa's intentions with regard to the regulatory system. With regard to the remaining portion (more than two thirds) of the difference, the NMa is of the opinion that this is not in line with what NMa intended with regard to the regulatory system. The NMa will therefore shortly announce which measures are necessary to prevent undesired effects which result in an increase in the return from occurring in the future. If amendments to legislation prove to be necessary in this regard, the NMa will present proposals to the Minister of Economic Affairs.

Extent of the difference including corrections

In the table below, the difference between the gross profit and the standard return in accordance with the regulatory system (amounting to EUR 595 million in the period from 2004 to 2005) has been corrected (in other words reduced) to take account of the explanations which the NMa deems desired. This relates to the following factors: cost efficiency and corrections by the NMa. This results in the following corrected differences per company.

Table 2 – Gross profit compared to standard return per energy company (amounts in EUR millions)

	Gross profit of regulated activities	Standard return	Difference	Corrected difference	Corrected difference as % of standard return
Eneco	655	515	140	91	18%
Essent	875	580	295	171	29%
Nuon	830	706	124	128	18%
Delta	81	45	36	3	7%
Total	**2,441**	**1,846**	**595**	**393**	**21%**

Table 2 shows that the difference between the gross profit, including corrections for the above-mentioned desired factors, and the standard return has been reduced to approximately EUR 393 million. This differs considerably from one company to the next. In the years researched, Delta has a relatively low difference. In the case of Essent, the difference is the greatest, both relatively and as absolute amounts, in 2004 and 2005. The differences of Eneco and Nuon are the same as percentages.

Question 5) Are the network managers able to realise an adequate return within the framework of the present regulatory system to enable them to continue investing?

With regard to security of supply, it is important to determine whether the network managers generate sufficient revenue s to finance the necessary investments. If the actual commercial profit realised through regulated activities were too low, this would cause a problem. In the preliminary evaluation of the Electricity Act of 1998 and the Gas Act, and during the preparation of the method decisions for the third regulatory period in relation to electricity in 2006, the network managers stated that as a result of the way in which regulation was implemented they had sufficient financial means at their disposal to enable them to invest. It emerged from this research, however, that the network managers realise a return which exceeds the standard return, which already takes into account necessary investments. During this research, the network managers themselves drew the conclusion that they have sufficient funds at their disposal for investment and can therefore maintain the level of security of supply. The question as to whether an adequate return is realised to finance necessary (replacement) investments and, by doing so, to guarantee security of supply is therefore answered in the affirmative.

With regard to independent network management, the dividend flows which the energy companies reported in the years researched may be a possible area requiring attention. From the research it appears that almost

all of the profit which the network managers realise from the regulated activities is paid out to the holding company[18] (see also the answer to research question 3). As long as guarantees are then given that the network manager has sufficient funds at its disposal at all times from the holding company for making investments, and the network manager can decide independently on whether or not investments must be made, it is not a contravention of the law to pay out the profits from the regulated activities to the holding company of the energy company. Within this context, a risk that may arise if the network manager wishes to make investments in the future, but the holding company does not have sufficient funds at its disposal. A risk may also arise if it appears that the network manager does not, in fact, have the necessary (material) independence within the governance structures of the holding company to take independent decisions on whether and which investments are necessary. At present, there is no concrete evidence that the holding companies have insufficient solvency or liquidity to finance such investments. Nevertheless, the NMa deems it necessary that it should also be possible to guarantee fully that the necessary investments will be made in the future, given that it is not unlikely that the commercial activities of the holding companies will increase. The NMa will carry out further research into this aspect within the framework of the Independent Network Management Act [*Wet onafhankelijk netbeheer*].

Question 6) Do the network managers realise so much profit that the conclusion must be drawn that in relative terms consumers pay too much?

In answering this question, it is relevant firstly to note that the present regulatory system has already resulted in relative savings of EUR 1.9 billion. On average, more than EUR 25 per consumer per annum has been saved on electricity transmission bills for the period from 2001 to 2007. On average, the savings on gas bills amount to approximately EUR 20 per consumer per year in the period from 2002 to 2007. In total, this is approximately EUR 45 per annum per consumer with an electricity and a gas connection on a transmission bill of approximately EUR 470 per annum.

European research has also shown that the tariffs which consumers in the Netherlands pay for the transmission of energy are at an average level, while from a European perspective the quality of the network in the Netherlands is very high. Consumers in the Netherlands therefore pay an average price for high quality for (regional) transmission of gas and electricity compared to other European consumers.

This does not detract from the fact that the difference between the actual return and the standard return (corrected for desired differences) is a substantial amount in the period from 2004 to 2005 (approximately EUR 393 million). This difference per year per connection[19] amounts to approximately EUR 15 on average. If a consumer has an electricity and a gas connection, this amounts to an average difference of approximately EUR 31 per consumer per year, measured for the period from 2004 to 2005. The amounts differ per energy company and the amounts are averages for all consumer groups (small consumers and large consumers). The table below shows the differences per energy company. It appears from this that the differences in the case of Eneco, Essent and Nuon were of the same order of magnitude in 2005. It appears that the amounts for Eneco, Nuon and Delta per connection and per consumer in 2004 were very similar.

[18] The holding company is the shareholder of the network management entity.

[19] 'A connection' refers here to an electricity connection or a gas connection. There were 7.0 million electricity connections and 5.6 million gas connections (together 12.6 million connections) in the Netherlands in 2004, and 7.2 million electricity connections and 5.8 million gas connections (together 13.0 million connections) in 2005. This relates to both connections of small consumers and connections of large consumers. The ratio between the number of connections of small consumers and the number of connections of large consumers differs from one energy company to the next.

Table 3 - Differences in return (taking into account desired differences) per year and per company (amounts in euros)

	Average per connection		Consumer with an electricity and a gas connection	
	2004	2005	2004	2005
Eneco	13	13	25	27
Essent	23	18	46	33
Nuon	12	14	26	28
Delta	14	-4	26	-8
Weighted average	**16**	**15**	**32**	**28**

The NMa considers a difference averaging approximately EUR 31 too large. This does not mean that the tariffs can automatically be reduced by approximately EUR 31 per annum for the average consumer[20] in the near future. After all, the effect of the three factors involved in increasing returns (see question 3) may differ with regard to the absolute amounts involved.[21] This does not detract from the fact that the unintended and undesired effects of increasing returns must be prevented from occurring in the future. The NMa will shortly announce which measures are necessary for this. In doing so, the NMa will strive to achieve an optimal balance between a price which is not too high for consumers, on the one hand, and security of supply, on the other hand.

Question 7) Do the findings and conclusions drawn in relation to the above questions have consequences for the chosen method of regulation?

As a result of a reduction in the tariffs for regulated activities, the regulatory system applied by the NMa generated savings of EUR 1.9 billion in the period from 2001 to 2007 on the energy bills of consumers. This is approximately EUR 45 per year per consumer with an electricity and a gas connection on a transmission bill of approximately EUR 470 per annum. Due to these savings, the NMa is of the opinion that in the main the method of regulating the regulated activities is effective. These lower tariffs, after all, result immediately in lower revenues for network managers and, as a result, they experience an incentive to operate more efficiently in order to realise a return which they consider satisfactory.

The regulatory system has been designed to regulate the revenue streams of network managers, through the tariffs, and by doing so to give the network managers an incentive to operate (more) efficiently. The system does not focus explicitly on the level of the profit realised. In its regulatory system, the NMa applies a standard return. In determining the standard return, both security of supply and the interest of consumers not to pay more than is necessary have been taken into account.

However, in this research the NMa concludes that the effect of the system based on the Electricity Act and the Gas Act results in profits which are higher than the standard return. Stricter regulation of the tariffs is necessary. The NMa will announce shortly which measures will be taken to prevent unintended and undesired differences from occurring in the future. The regulatory system will be tightened to achieve this. If it appears that legislation will have to be amended to achieve this, the NMa will present proposals to the Minister of Economic Affairs.

[20] An average a consumer has a single electricity and a single gas connection.
[21] On the basis of this research, it can only be concluded with certainty that the difference between the return which is deemed fair and the actual return on regulated activities averaged approximately EUR 31 per annum for the years 2004 and 2005.