



DECISION

Our reference: ACM/DE/2017/202768

Case number: 17.0288.52

**Decision setting the maximum electricity
distribution tariffs with effect from 1 July 2017
for:**

St. Eustatius Utility Company NV

Determination by the Netherlands Authority for Consumers and Markets of the maximum electricity distribution tariffs as referred to in Article 3.9, paragraph 4, and Article 3.14, paragraphs 1 and 2, of the BES Electricity and Drinking Water Act.



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2 Introduction and reader's guide

1. By means of this distribution tariff decision the Netherlands Authority for Consumers and Markets (hereinafter: ACM) implements Articles 3.9, paragraph 4, and 3.14, paragraph 1, of the BES Electricity and Drinking Water Act.¹ Under that article ACM is required, on the proposal of a distributor, to set the maximum distribution tariffs which the distributor will charge end users for the distribution of electricity.
2. St. Eustatius Utility Company NV (hereinafter: STUCO) is an electricity distributor on Sint Eustatius.
3. In this decision ACM sets the maximum electricity distribution tariffs which STUCO will charge from 1 July 2017 for the distribution of electricity. Where ACM uses the formulations 'maximum tariffs' or 'maximum tariff' in this decision, it refers to the maximum tariffs or tariff which STUCO is permitted to charge. In the case of electricity distribution, this concerns four types of tariff:
 - a. the connection tariff
 - b. the fixed consumption tariff
 - c. the variable consumption tariff
 - d. the reconnection tariff.
4. This decision consists of a number of sections. Section 3 provides the context of this decision. Section 4 sets out the connection with other decisions. Section 5 is devoted to legal protection. Section 6 sets out successively the costs, revenues and maximum distribution tariffs of STUCO. That section also states how ACM will determine any differences retrospectively. This decision also includes an annex, namely the Excel file containing the calculation model for STUCO electricity distribution tariffs for 2017. That annex is published on the ACM website (www.acm.nl) and forms an integral part of the decision. This decision comes into force on 1 July 2017.

¹ Law of 23 March 2016, containing rules on the production and distribution of electricity and drinking water on Bonaire, Sint Eustatius and Saba (*BES Electricity and Drinking Water Act*), Bulletin of Acts and Decrees 2016, 142.



3 Context of this decision

5. The BES Electricity and Drinking Water Act aims to ensure reliable, sustainable and affordable supplies of electricity and drinking water on Bonaire, Sint Eustatius and Saba.² This is achieved in part through tariff regulation.
6. Under Article 2.5, Article 3.9, paragraph 4, and Article 3.14 of the BES Electricity and Drinking Water Act, ACM's responsibilities include setting a maximum production price for electricity and drinking water and maximum distribution tariffs for electricity and drinking water. The production price is charged by the producer to the distributor. The distribution tariffs are charged by the distributor to the end user (consumers and business customers).
7. The legislature has three objectives with the tariff regulation legally entrusted to ACM. The first objective is consumer protection. Since end users in the Caribbean Netherlands cannot negotiate on the price of electricity or drinking water and because they are not free to choose the company from which they purchase their electricity or drinking water, the maximum tariffs for those services are set by ACM.
8. The second objective of the tariff regulation is investor protection. A stable and predictable regulation climate enables the company to make the necessary investments in the infrastructure and production capacity.
9. The third and final objective is the productive efficiency of the company. This enables services of sufficient quality to be provided at the lowest possible cost.
10. The legislature uses cost orientation as its starting point in the tariff regulation entrusted to ACM. That means that electricity and drinking water tariffs are based solely on the costs of the company which produces and distributes those supplies.
11. A producer and a distributor of electricity have an interest in ensuring that they can recoup the efficient costs (including a reasonable return) which they incur in order to fulfill their statutory duties. A lack of competition could result in a producer and a distributor having insufficiently efficient operations, charging excessively high tariffs or, in the case of a distributor, discriminating between different types of end user. End users would be disadvantaged in such cases. End users therefore benefit from the promotion of efficiency in business practice.

² *Parliamentary papers II*, 2014-15, 34089, 3, p. 1.



12. The legislature has therefore entrusted ACM with the task of establishing a system of regulation that provides an incentive for both the producer and the distributor to operate just as efficiently as companies that face competition and to improve both quality and efficiency.
13. STUCO has a monopoly position on Sint Eustatius in the distribution of electricity. End users have no choice of electricity distributor. By means of this decision ACM therefore sets the maximum distribution tariffs which STUCO is permitted to charge end users of electricity. STUCO may decide to charge end users lower tariffs, with the exception of the reconnection tariff referred to in Article 3.9, paragraph 4, of the Act, since that is a flat tariff.
14. The aim of the regulation system is to prevent STUCO from charging unreasonably high distribution tariffs to end users of electricity. It is also important that STUCO can recoup the efficient costs which it incurs in the distribution of electricity. If STUCO is reimbursed for the efficient costs (including a reasonable return), the necessary investments in quality, and hence the security of supply of electricity, will not be endangered.



4 Connection with other decisions

15. Every year ACM issues separate decisions setting the maximum production price which a producer of electricity and drinking water is permitted to charge a distributor of electricity and drinking water. ACM also sets the maximum distribution tariffs which a distributor is permitted to charge end users.
16. In this section ACM describes how the distribution tariffs relate to the method decision that establishes the regulation system.

4.1 From method decision to production price and distribution tariff decision

17. ACM's power to adopt a production price decision and a distribution tariff decision results from Article 2.5, paragraph 1, and Article 3.14, paragraph 1, of the BES Electricity and Drinking Water Act.
18. In order to set a production price and distribution tariffs ACM must apply a method. This method describes how the costs of a business lead to a tariff for the consumer. The legal basis of this method also results from Article 2.5, paragraph 4, and Article 3.14, paragraph 5, of the BES Electricity and Drinking Water Act.

"Article 2.5

1. *On 1 January of each year, on a proposal from a producer, the Netherlands Authority for Consumers and Markets sets the maximum production price which this producer will charge a distributor for the electricity or drinking water which it produces.*
2. *The production price for electricity or drinking water is based on the actual production costs, allowing for a reasonable return, and includes the operating and maintenance expenses, energy costs and capital expenses.*
3. *Notwithstanding the first paragraph, the energy costs may be set as a monthly variable part of the production price.*
4. *In setting the production price, the Netherlands Authority for Consumers and Markets adopts a method which promotes efficient business practice.*
5. (...)
6. (...)
7. *By way of a ministerial decree, more specific rules are set with regard to the procedure and elements and the method used to calculate the production price, as referred to in this article.*



Article 3.14

1. On a proposal from a distributor, the Netherlands Authority for Consumers and Markets sets the maximum tariffs which the distributor will charge the end users for the distribution of electricity or drinking water.

2. There are four distinct tariffs:

- a. connection tariff*
- b. fixed consumption tariff*
- c. variable consumption tariff*
- d. road transportation tariff for drinking water.*

3. The tariffs may differ for different categories of end user.

4. The tariffs are non-discriminatory, transparent and based on the actual costs, allowing for a reasonable return and taking into account the subsidy, as referred to in Article 5.1.

5. In setting the tariffs, the Netherlands Authority for Consumers and Markets adopts a method which promotes efficient business practice.

6. The tariffs come into force on a date to be specified by the Netherlands Authority for Consumers and Markets and apply until 1 January of the year following the date of entry into force of the decision setting the tariffs, with the exception of the variable consumption tariff, which may be set on 1 January and 1 July of each calendar year.

7. If on 1 January the tariffs for that year have not yet been set, the most recently set tariffs will remain in force up to the date of entry into force of the decision setting the tariffs for the following year.

8. By way of a ministerial decree, more specific rules are set with regard to the procedure and elements and the method used to calculate the tariffs, as referred to in this article.”

19. The decree referred to in the above articles is the Ministerial Decree on Electricity and Drinking Water in the BES Islands³. Article 2.1 of that decree specifies more detailed requirements with regard to the decision method referred to above:

“Article 2.1

1. After consultation with stakeholders the Netherlands Authority for Consumers and Markets adopts a method as referred to in Article 2.5, paragraph 4, and Article 3.14, paragraph 5, of the Act for a period of three to ten years.

³ Decree of the Ministry of Economic Affairs of 10 June 2016, no. WJZ/15003661, containing rules on the production and distribution of electricity and drinking water on Bonaire, Sint Eustatius and Saba. *Government Gazette* 2016, no. 33268.



2. *The method describes how the production price and the tariffs are set, in such a way that the method encourages efficient business practices by the producer and the distributor, provides a reasonable economic return and a reliable, affordable and sustainable supply of energy and drinking water.*

3. *The method specifies at least the method used to determine the expected efficient costs and to that end the method used to determine the reasonable economic return.*

4. *The method lays down the way in which the energy costs are determined as part of the production price.*

5. *Three months before the intended start date of an amendment to the production price or the tariffs, a producer or distributor must submit a proposal to that effect to the Netherlands Authority for Consumers and Markets.”*

20. After consultation with stakeholders, comprising the various producers, distributors and end user organizations in the Caribbean Netherlands, ACM adopted the “Method for setting the tariffs for the production and distribution of electricity and drinking water in the Caribbean Netherlands 2017-2019” (hereinafter: method decision) on 30 September 2016. On 17 November 2016, also after consultation with stakeholders, ACM adopted the method for the so-called Weighted Average Cost of Capital (hereinafter: WACC method), the permitted reasonable return for the companies concerned. The WACC method is an annex to the aforementioned method decision, of which it forms an integral part. ACM has published both methods on its website.
21. The method decision applies for a period of three calendar years, from 1 January 2017 up to and including 31 December 2019.
22. The Act and the Ministerial Decree form the basis of the method decision. The method decision then forms the basis of the production price decision and the distribution tariff decision.
23. ACM adopted the production price decisions on 16 December 2016.

4.2 The distribution tariff decision

24. Under Article 3.9 and Article 3.14 of the BES Electricity and Drinking Water Act ACM is required to set four distribution tariffs and one reconnection tariff (referred to collectively as distribution tariffs).

4.2.1 The connection tariff

25. Article 3.15 of the BES Electricity and Drinking Water Act specifies the maximum connection tariff and how ACM must set it.



“Article 3.15

1. *The connection tariff takes into account the costs associated with the task referred to in Article 3.5, paragraph 1, preamble and section c.*
 2. *The connection tariff is charged on a one-off basis to every party connected to a network by a distributor.*
 3. *The level of the connection tariff depends on the size of the connection capacity and, if the length of the connection exceeds 25 meters, the length of the connection, and is expressed as a fixed amount in USD.*
 4. *If on an end user’s connection with a length in excess of 25 meters a new connection is installed for a different end user, the end user who has paid for the existing connection will receive partial compensation from a distributor.”*
26. The connection tariff is a one-off fee that an end user pays to the distributor for a new connection to the electricity or drinking water network. This fee covers the costs which the distributor incurs for that connection. Under Article 3.15, paragraph 3, of the Act ACM must also set a so-called extended length tariff, for connections made at a distance of more than 25 meters from the network.

4.2.2 The fixed consumption tariff

27. Article 3.16 of the BES Electricity and Drinking Water Act describes the fixed consumption tariff and how ACM must set it.

“Article 3.16

1. *The fixed consumption tariff takes into account the costs associated with the tasks referred to in Article 3.5, paragraph 1, preamble and sections a, b, d and e.*
2. *The fixed consumption tariff is charged to each end user who receives electricity or drinking water on a connection and to each end user who feeds in electricity to the network.*
3. *The level of the fixed consumption tariff depends on the size of the connection capacity, is calculated per connection and is expressed as a fixed amount in USD.*
4. *A lower fixed consumption tariff can be set for certain categories of end user. By way of a ministerial decree it is possible to specify that end users with a low connection capacity are given a discount on the fixed consumption tariff, with the discount tariff being specified in the decree.*
5. *Costs associated with intentional destruction by an end user are charged individually to that end user.”*



28. The fixed consumption tariff is a fixed amount which an end user pays periodically (monthly) to the distributor. This amount covers the costs which the distributor incurs for the transportation and supply of electricity or drinking water (also referred to as distribution or network costs).
29. The amount of the fixed consumption tariff may differ for different connection capacities. End users with a small connection capacity pay a lower fixed consumption tariff than end users with a large connection capacity. This is due to the costs which the distributor incurs; the larger the connection, the higher the distribution/network costs.

4.2.3 The variable consumption tariff

30. Article 3.17 of the BES Electricity and Drinking Water Act specifies the variable consumption tariff and how it must be set:

“Article 3.17

1. *The variable consumption tariff takes into account the production price, referred to in Article 2.5, paragraph 1, and the costs associated with the tasks and obligations of a distributor, except costs associated with the tasks for which a connection tariff, fixed consumption tariff or road transportation tariff have been set.*
2. *The variable consumption tariff is expressed as an amount per kWh or per cubic meter of drinking water and is charged to each end user who receives electricity or drinking water.*
3. *Notwithstanding paragraph 1 and Article 3.16, paragraphs 2 and 3, if a system of prepayment for a specific amount of electricity or drinking water is in place, a distributor may charge an end user only a special variable consumption tariff to be set by the Netherlands Authority for Consumers and Markets. This special variable consumption tariff takes into account the fixed consumption tariff, as referred to in 3.16, paragraph 1, on the basis of an annual consumption of electricity or drinking water to be specified in a ministerial decree.”*

31. The variable consumption tariff is the amount which end users pay to the distributor per purchased kilowatt-hour (kWh) of electricity or per cubic meter (m³) of drinking water. The variable consumption tariff covers the costs of the production of electricity and the part of the distribution/network costs not already taken into account in the fixed consumption tariff.

4.2.4 Reconnection tariff (flat-tariff amount for reconnection)

32. Under Article 3.9, paragraphs 4 and 5, of the BES Electricity and Drinking Water Act, ACM is required to set a *reconnection tariff*. That is a fixed amount which a distributor must charge an end user to reconnect that end user to the electricity or drinking water network after a previous disconnection.



“Article 3.9

4. (...)

5. (...)

6. (...)

7. *A distributor charges an end user a flat-tariff amount to be specified by the Netherlands Authority for Consumers and Markets to reconnect that end user if the disconnection is due to default on the part of the end user.*

8. *By way of a ministerial decree more specific rules are set on the termination of the distribution of electricity or drinking water, reconnection and the level of the flat-tariff amount and with regard to preventive measures to avoid termination as far as possible.”*

33. Article 3.2 of the Decree on Electricity and Drinking Water in the BES Islands specifies as follows with regard to the setting of the fixed (flat-tariff) amount:

“Article 3.2

The flat-tariff amount to be set by the Netherlands Authority for Consumers and Markets, referred to in Article 3.9, paragraph 4, of the Act in the case of reconnection, must not exceed the efficient costs which a distributor incurs for the reconnection.”

4.3 The process of setting new distribution tariffs

34. On the basis of Article 2.1, paragraph 5, of the Ministerial Decree on Electricity and Drinking Water in the BES Islands a distributor must submit an appropriate proposal to ACM three months before the intended start date of the distribution tariff amendment.
35. Having regard to the intended start date of the new maximum distribution tariffs, namely 1 July 2017, STUCO should have submitted its distribution tariff proposal to ACM no later than 1 April 2017.
36. ACM incorporated the data received on time from STUCO in a calculation model, which ACM supplied to STUCO. STUCO then asked questions relating to it and also provided more detailed documents. ACM provided a further explanation to STUCO representatives at various times.
37. On 24 March 2017 STUCO then submitted its proposal for the new distribution tariffs to ACM.



5 Legal protection

38. In this section ACM describes the legal means available to stakeholders to challenge the production price decision or the distribution tariff decision. To that end ACM describes the applicable laws and procedural law.
39. Article 3, paragraph 1, preamble and part a, of the Public Bodies Bonaire, Sint Eustatius and Saba Act sets down, insofar as this is relevant here, that the General Administrative Law Act, excepting Chapter 9, does not apply to the decisions and actions of administrative bodies located in the European part of the Netherlands for the implementation of legislation that applies only within the public entities.
40. Pursuant to Article 3, paragraph 2, of the Public Bodies Bonaire, Sint Eustatius and Saba Act, in the cases referred to in paragraph 1, the BES Administrative Justice Act (Wet administratieve rechtspraak BES, War-BES) applies insofar as decisions within the meaning of that act are concerned.
41. On the basis of Article 3, paragraph 1, of the BES Administrative Justice Act, a decision is a written decision by an administrative body which is a legal act under public law and which is not of general scope.
42. Pursuant to Article 7, paragraph 1, of the BES Administrative Justice Act, natural persons and legal persons whose interests have been directly affected by a decision can appeal against it to the Court of First Instance of Bonaire, Sint Eustatius and Saba (the Court).
43. On the basis of Article 9, paragraph 1, of the BES Administrative Justice Act, an appeal can be lodged against a decision on the grounds that the decision conflicts with a generally binding provision or a general legal principle.
44. On the basis of Article 55 of the BES Administrative Justice Act, natural persons and legal persons as referred to in Article 7, paragraph 1, of the BES Administrative Justice Act are authorized to lodge a complaint with ACM to protest the decision, and to appeal to the Court only after ACM has made a decision pertaining to the complaint.

5.1 What does this mean?

45. ACM is established in the European part of the Netherlands and its responsibility is to ensure compliance with the BES Electricity and Drinking Water Act. This Act only applies to the public bodies of Bonaire, Sint Eustatius and Saba. For this reason, the BES Administrative Justice Act



(instead of the General Administrative Law Act) applies to ACM's decisions pertaining to the implementation of the Act.

46. Natural persons and legal persons (people and companies) whose interests have been directly affected by this decision (stakeholders) can directly file a judicial appeal against this decision or may first file an administrative appeal with ACM.
47. In order to be a stakeholder, the party must have its own sufficiently objective, personal or individual, direct and current interest (i.e. distinguishable from the interests of others). ACM will assess whether this is the case if natural persons or legal persons challenge this decision.

5.2 Direct judicial appeal...

48. Stakeholders can lodge a judicial appeal directly. A substantiated appeal must be submitted to the registry of the Court no later than six weeks after this decision was sent or issued.
49. Stakeholders established on Saba or Sint Eustatius must submit their appeal in duplicate to the registry of the Court on Sint Maarten. The address of that Registry is: Frontstreet 58 (The Courthouse), Philipsburg, Sint Maarten.
50. Stakeholders established on Bonaire must submit their appeal in duplicate to the Registry of the Court on Bonaire. The address of that Registry is: Plaza Reina Wilhelmina (Fort Oranje), Kralendijk, Bonaire

5.3 ... or an administrative appeal filed with ACM first

51. Stakeholders may also choose to submit an administrative appeal to ACM first.
52. A substantiated administrative appeal must then be submitted to ACM no later than six weeks after this decision was sent or issued. The address is Kaya Internashonal z/n, P.O. Box 357, Kralendijk, Bonaire.
53. Stakeholders on Bonaire, Saba and Sint Eustatius can submit their administrative appeal to ACM by e-mail. The appeal must then be sent to: marga.buys@acm.nl and/or laurens.jorg@acm.nl. ACM will send a confirmation of receipt. If the submitter of the appeal receives no confirmation of receipt from ACM, ACM urges the submitter to contact ACM on Bonaire by telephone on +599 781 0084 and/or +599 781 0281.



54. Stakeholders on Saba and Sint Eustatius who do not have an internet connection can submit the appeal in writing to the local office of Rijksdienst Caribisch Nederland (National Office for the Caribbean Netherlands) on their island.

On Saba the address is: The Bottom

On Sint Eustatius the address is: Mazinga Complex A, B, Fort Oranjestraat, Oranjestad.

55. After ACM has taken a decision on an administrative appeal, natural persons and legal persons who do not agree with it can file a judicial appeal.
56. The judicial or administrative appeal may also include arguments against the method decision of 30 September 2016 adopted by ACM and the WACC method of 17 November 2016 forming part of it.



6 Setting the distribution tariffs

57. As stated in section 5.2 of the regulation method of 30 September 2016, ACM takes a number of steps in setting the distribution tariffs:
- Step 1: Determining the costs
 - Step 2: Determining how those costs lead to revenues
 - Step 3: Determining how those revenues lead to tariffs
 - Step 4: Determining how any differences between costs and revenues are subsequently settled.
58. ACM describes the above four steps in this section of this distribution tariff decision.

6.1 Determining the costs

59. STUCO's costs consist of capital costs and operating costs. Capital costs comprise depreciation and a reasonable return. Operating costs are costs incurred by an undertaking to keep the business operating, such as personnel costs. ACM bases its cost determination for the setting of the distribution tariffs on the 2015 costs, as recorded in STUCO's financial statements, supplemented with additional information on the operating costs and assets which STUCO has sent to ACM.

6.1.1 The capital costs

60. In order to determine STUCO's capital costs, ACM must first determine the regulatory value of STUCO's assets. We call this the 'regulatory asset value' (RAV).
61. STUCO's regulatory assets consist of the fixed assets which STUCO uses as a distributor of electricity and which it requires for its business operation. They concern cables, transformers, land and buildings, vehicles, back-up facilities and measurement and control equipment. They also include the part of the indirect assets (mainly inventory) allocated to the distribution of electricity.
62. The depreciation of the fixed assets and a reasonable return on the regulatory asset value make up the capital costs. To determine the RAV and depreciation, ACM uses the detailed overview which STUCO has sent to ACM with information on all the assets owned by STUCO. These are to a large extent assets acquired from N.V. GEBE⁴ (hereinafter: GEBE) at the end of 2013; the investments in 2014 and 2015 were made by STUCO itself.

⁴ N.V. Gemeenschappelijk Elektriciteitsbedrijf Bovenwindse Eilanden (GEBE)



63. ACM bases its determination of the regulatory value of the fixed assets on the historical cost which companies enter in their financial records (including the known data from GEBE). By reducing the historical cost by the amount of the accumulated depreciation, ACM arrives at the regulatory asset value as at 31 December 2015.
64. ACM determines the annual depreciation by applying the depreciation periods used by STUCO. ACM chooses not to take into account in advance any residual value (the estimated amount which STUCO will receive for the sale of the assets at the end of the expected lifetime). ACM thus depreciates the assets fully to zero, in the depreciation periods specified by STUCO. That is because STUCO must be able to recoup past efficient investments in full through its tariffs. ACM does, however, take account of the actual proceeds of any asset sales, should such proceeds materialize. ACM does this to prevent end users paying twice for the costs of assets.
65. One-off write-downs resulting from the accelerated depreciation or divestment of an asset are excluded, because such incidental write-downs are not considered representative of depreciation charges in 2017.
66. If an asset has been financed with a subsidy or contributions from third parties, the historical cost is reduced by the amount of this subsidy and/or contribution. ACM does not include assets under construction in determining the RAV. An asset only forms part of the RAV if it has been taken into use. Companies are permitted to capitalize the construction interest on assets under construction.
67. Having regard to the foregoing, ACM has arrived at an RAV for the distribution of electricity by STUCO of USD 1,504,321 at the end of 2015, with 2015 depreciation of USD 105,077.
68. ACM calculates the reasonable return by multiplying the RAV by the WACC which ACM has determined for 2017, namely 6.74%⁵. The result of that is USD 101,391. ACM adds to that amount USD 105,077 of depreciation. The total capital costs thus amount to USD 206,469.

6.1.2 The operating costs

69. The operating costs also form part of STUCO's regulatory costs. ACM has based those costs on the 2015 financial statements supplied by STUCO. STUCO has stated in a detailed overview of the operating costs which direct costs it has incurred for the distribution of electricity. ACM

⁵ Calculating the WACC for energy and water companies in the Caribbean Netherlands, ACM/DE/2016/206939, marginal 7 (electricity & water combined)



has adopted this allocation, with the exception of the direct allocation of the personnel costs to production and distribution. The costs of network losses also do not form part of these operating costs, because they are reimbursed by means of a mark-up on the variable consumption tariff (the tariff for electricity in kWh).

70. ACM has chosen to allocate the personnel costs to the various activities by a different method than on the basis of the allocation specified by STUCO. That is because the personnel costs which STUCO allocates to each activity are not in line with the scale of the activities conducted. STUCO has, however, used a plausible allocation ratio in the budget which it provided for 2015. ACM has therefore chosen to use the allocation ratio based on the budget, instead of the stated costs, in order to allocate the personnel costs in 2015 between production and distribution.
71. STUCO also has overheads, which it has not yet allocated to electricity or drinking water. To allocate these indirect costs, ACM uses the allocation ratio on the basis of which the direct costs have been allocated among the various activities.
72. The costs for write-offs of doubtful debts are also part of STUCO's operating costs. STUCO has informed ACM that the costs of doubtful debts in 2015 amounted to approximately 2% of turnover. ACM estimates that the costs of doubtful debts in 2017 amounted to 1% of STUCO's turnover in 2017 (excluding subsidy amounts). This is based on ACM's expectation that the number of disconnections will decrease in 2017 as a result of the increase in the reconnection tariff to the actual cost level. Reconnection will become more expensive, prompting end users to pay their STUCO bill on time. ACM also considers this decision to estimate 1% of turnover in 2017 for the costs of doubtful debts to be reasonable in light of the considerably lower costs of actual write-offs of doubtful debts on Saba and Bonaire.
73. To calculate the expected costs of doubtful debts, ACM has estimated the 2017 revenues from the tariffs which STUCO charges (i.e. excluding any subsidies to reduce these tariffs). ACM estimates this amount of revenues at approximately USD 4,419,000 (at the 2015 price level), so the expected cost of doubtful debts (1% of this) is estimated to be USD 44,190.
74. If there were one-off income and expenses in 2015, ACM has deducted these from the operating costs because they are not representative of the 2017 costs.
75. As operating costs for the distribution of electricity ACM takes into account an amount of USD 948,737, plus an amount of USD 44,190 as reimbursement of doubtful debts.



6.1.3 Additional costs and other revenues

76. In the method decision for the Caribbean Netherlands, ACM included the possibility of allowing for additional costs in the tariffs if these would be demonstrably incurred in 2017 but were not yet included in the financial statements in 2015.
77. STUCO has not entered any additional costs for the distribution tariffs for electricity.
78. ACM also takes account of any other STUCO revenues from activities for which ACM sets no tariff. These other activities must be kept wholly outside the tariff regulation, because otherwise they might be reimbursed twice. ACM prevents these costs from being included in the tariff regulation by deducting the revenues obtained through these activities from the total revenues set for STUCO for 2017 in the calculation of the total costs. STUCO has no large-scale activities which affect the regulatory cost base for the distribution of electricity. STUCO did nevertheless have an amount of other revenues in 2015 (USD 53,558, at the 2015 price level). ACM deducts this amount from the total costs in 2015.
79. Finally ACM takes account of the costs and revenues which STUCO had in 2015 from reconnections and fees for new connections. In setting the cost base ACM includes only those costs which are reimbursed through the distribution tariff. In the case of reconnections and new connections STUCO can charge separate fees. ACM therefore also deducts the costs of those activities from the total cost base. For this purpose ACM uses estimates by STUCO of the numbers of reconnections and new connections and their average costs. ACM estimates the costs associated with reconnections to be USD 86,365 and the costs associated with new connections to be USD 20,000. These are amounts at the 2015 price level. ACM deducts these amounts from the total cost level used to determine the revenues in 2017. If the actual tariffs in 2017 are not (yet) set at the cost level (for example due to a transitional arrangement), the difference between the revenues and costs will be for the account of STUCO.

6.1.4 Total costs

80. In section 6.1.1 the total capital costs are determined to be USD 206,469. The total operating costs are determined in section 6.1.2 to be USD 948,737, plus an amount of USD 44,190 as reimbursement for doubtful debts. A total amount of USD 159,923 is deducted from the regulatory cost base in connection with other revenues. The total costs for 2015 thus amount to USD 1,039,473. These costs are at the 2015 price level.



6.2 Determining the permitted revenues

81. The previous section states STUCO's (efficient) costs. In this section ACM determines STUCO's permitted revenues.
82. The permitted revenues are equal to the expected costs. In order to calculate the revenues for 2017, the total costs for 2015 must be adjusted for inflation. For these figures ACM uses data from Statistics Netherlands. For the inflation correction in year t ACM uses the percentage difference in the consumer price index for Sint Eustatius between the third quarter of year $t-1$ and the third quarter of year $t-2$. The estimated (expected) inflation which ACM calculates in this way for 2016 amounts to -0.5%, and that for 2017 amounts to -0.9%. The calculation is included in the calculation model in the annex.
83. The total permitted revenues for 2017 for the distribution of electricity after inflation adjustment amount to USD 1,024,967.

6.3 Setting the maximum distribution tariffs

84. The previous section states STUCO's permitted 2017 revenues. In this section ACM sets the maximum distribution tariffs which STUCO is permitted to charge end users.
85. ACM describes how it determines this for each type of tariff.

6.3.1 The connection tariff

86. In order to calculate the connection tariff, ACM conducted an examination in consultation with STUCO to determine the connection capacities for which ACM must set that tariff. In the current situation, for some connection capacities STUCO applies a fixed connection tariff which does not cover its costs.
87. ACM will only set a maximum tariff for the most common connection capacities. The most common connections are those with a capacity of up to 7.7 kVA (hereinafter: standard connections). ACM considers all larger connections to be *projects*. In the case of projects it is not easy to make prior estimates, so it is not possible to determine the level of the connection costs. This is due in part to the low frequency of such requests per year (only a few) combined with the impact which incorrect assessment and setting of connection costs has on both the distributor and the end user. In order to avoid incorrect estimation and setting of costs, ACM therefore deems it reasonable to use the actual costs incurred by a distributor in principle as a basis for connections in projects. The following nevertheless applies.



88. In the case of projects STUCO will issue a quotation for the costs of the connection on request. ACM receives a list of the quotations which STUCO has sent for projects, including supporting evidence in which STUCO sets out the costs incurred for these projects.

89. On the basis of this information, ACM will carry out monitoring to ensure that STUCO applies tariffs that are in no case discriminatory. ACM will also monitor whether, on the basis of actual costs incurred, ACM could nevertheless set a fixed connection tariff for the distribution tariffs from 2018 for certain connection capacities or for parts of the works.

The connection tariff for standard connections

90. When setting the connection tariff ACM applies the principle that an end user must know in advance what the costs of a standard connection are. This is transparent and clear and promotes legal certainty – including for the distributor, who then knows at what price he must install the connection.

91. In order to set the connection tariff for the standard connections, ACM has asked STUCO to provide supporting evidence for the costs of installing such a standard connection. STUCO has supplied that evidence.

92. On the basis of this evidence ACM sets the connection tariff for standard connections at USD 282. This excludes the costs of the electricity meter. The costs of the electricity meter are not reimbursed from the connection tariff and are therefore not included in the above tariff. The costs per meter must be capitalized by STUCO and, through the RAV, thus lead to a remuneration in the fixed consumption tariff (the tariff per month).

93. STUCO has also provided evidence that additional costs are incurred when a 'road crossing' is involved, i.e. when it is necessary to cross over (or under) the road to connect the end user to the network. On the proposal of STUCO, ACM sets the cost of this at USD 175 per meter for connections with a connection capacity of 3.3 kVA and USD 190 per meter for connections with a connection capacity of 7.7 kVA.

94. In 2017 ACM will monitor the costs incurred by STUCO for the new connections. On this basis, in a subsequent distribution tariff decision, ACM may reconsider its decision to set the connection tariffs in this way.

The extended length tariff for standard connections

95. ACM does not yet set a tariff per meter for standard connections located further than 25 meters from the network. ACM cannot currently determine this accurately due to a lack of reliable data. For the extended length tariff per additional meter above 25 meters, STUCO will issue a



quotation and charge the end user the costs of the extended length. Naturally, in these cases the fixed connection tariff referred to above applies as a tariff for the connection for the first 25 meters.

6.3.2 The fixed consumption tariff

96. The law provides that the level of the fixed consumption tariff may differ for different connection capacities. ACM has therefore asked STUCO to provide details of the different connection capacities which it uses for electricity.
97. The fixed consumption tariff which an end user pays depends on the capacity of his connection. This capacity is expressed in a level of kilovolt-amperes (kVA). For each kVA category ACM sets a tariff which thus depends on the capacity of the connection in kVA. To calculate the tariff per kVA, ACM divides the total permitted revenues which STUCO can receive for the distribution network by the total capacity (in kVA) of all end users combined. In section 6.2 of this decision ACM has set the total permitted revenues at USD 1,024,967.
98. ACM has set the total capacity (in kVA) of all end users combined at 15,189 kVA. This figure serves as a calculation value so as to apportion the total revenues over the different capacities.
99. The division of the total permitted revenues by 15,189 produces an amount of USD 67,483 per kVA per year.
100. The fixed consumption tariff set by ACM for the different connection capacities results from the multiplication of the amount per kVA by the capacity of the connection. For this purpose fixed categories are used (3.2 kVA, 7.7 kVA, 11.0 kVA, etc.), on the basis of the connection capacities which STUCO offers to end users. The results of this calculation per capacity are included in Annex 1 to this decision.
101. Finally, ACM deducts the subsidy provided by the Ministry of Economic Affairs from the fixed consumption tariff, under Article 5.1, paragraph 1, of the BES Electricity and Drinking Water Act.
102. The Ministry of Economic Affairs has made available a subsidy for the electricity distribution costs incurred by STUCO. The Ministry of Economic Affairs has also determined the way in which this subsidy must be apportioned over the various connection categories. The Ministry of Economic Affairs has set the subsidy level at USD 14.36 per month for connections with a connection capacity of 3.2 kVA and USD 21.59 per month for connections with a connection capacity of 7.7 kVA.



103. This results in the fixed monthly consumption tariffs for the distribution of electricity by STUCO as set out in Annex 1 to this decision.

6.3.3 The variable consumption tariff

104. The variable consumption tariff, i.e. what an end user pays for the electricity he consumes, results from the setting of the production price which ACM set for STUCO in December 2016. ACM has set this production price for STUCO at USD 0.1378 per kWh, with an additional fuel component which varies monthly on the basis of the most recent fuel price.

105. In order to set the variable consumption tariff ACM uses the most recent fuel component and the assumptions resulting from the production price model which ACM adopted in December 2016. The most recent fuel component is that of 8 March 2017. For this month ACM arrives at a fuel component of USD 0.1278 per kWh, taking the total production price for the calculation of the variable consumption tariff to USD 0.2656 per kWh.

106. A further mark-up must be included in the production price for STUCO's network losses. The transportation of electricity to an end user often entails a loss of part of the electricity (due to resistance, cable breakages, etc.). This affects all end users. The network loss percentage for STUCO in 2015 amounted to 12.0%. The variable production tariff thus amounts to USD 0.3018 per kWh.

6.3.4 The reconnection tariff

107. ACM asked STUCO to provide evidence of the costs of reconnecting end users. STUCO has supplied that evidence. ACM notes that reconnecting an end user requires STUCO to carry out various activities. These partly comprise administrative work, while another part relates to the physical disconnection and reconnection of specific sites. ACM does not consider that the costs presented by STUCO are implausible or unreasonable. Accordingly, ACM sets the reconnection tariff for electricity, regardless of the capacity of the connection, at USD 40.00.

108. In 2017 ACM will monitor whether the amount which STUCO charges for a reconnection covers its costs. ACM will carry out that monitoring by asking STUCO to supply a list of the number of reconnections and the related costs incurred by STUCO. On the basis of that analysis ACM will determine whether the reconnection tariff for 2018 needs to be adjusted.

6.4 Retrospective determination of differences

109. In section 5.2 of the regulation method of 30 September 2016 ACM explains how it deals with differences between the determined permitted revenues and the actual costs incurred. In the



operation of the chosen 'profit-sharing' methodology, the permitted revenues for a particular year are determined in advance and the difference between those revenues and the costs incurred by STUCO in that year is then determined retrospectively. ACM sets part of that difference, namely 50%, against the revenues for the next calendar year. The remainder is for the account of the company, and is a profit or loss (depending on the aforementioned difference).

110. This retrospective examination (the difference analysis) will be possible for 2017 at the earliest in 2018, when STUCO's actual costs are revealed by an independent audit of the 2017 financial statements.
111. ACM has stated in the method that this retrospective examination includes a correction for estimation errors. Specifically for the distribution of electricity by STUCO, this concerns the estimate of the number of end users per category as stated in Annex 1.
112. If this estimate turns out higher or lower, ACM will apply a correction before examining whether STUCO incurred higher or lower costs than previously estimated. ACM will incorporate any differences in the distribution tariffs for 2019.



7 PROVISIONS

113. On the basis of Article 3.14, paragraph 1, of the BES Electricity and Drinking Water Act, the Netherlands Authority for Consumers and Markets sets the maximum electricity distribution tariffs which St. Eustatius Utility Company NV will charge end users from 1 July 2017, in accordance with Annex 1.
114. On the basis of Article 3.9, paragraph 4, of the BES Electricity and Drinking Water Act, the Netherlands Authority for Consumers and Markets sets the electricity reconnection tariff which St. Eustatius Utility Company NV will charge end users from 1 July 2017, in accordance with Annex 1.
115. This decision and its annex will be announced in the Government Gazette. The Netherlands Authority for Consumers and Markets will also publish this decision on its website (www.acm.nl).
116. This decision comes into force on 1 July 2017.

The Hague,
May 8th 2017

Netherlands Authority for Consumers and Markets,
on its behalf,

Dr. F.J.H. Don
board member



Filing a judicial or administrative appeal against this decision

Judicial appeal

Natural persons and legal persons whose interests have been directly affected by this decision may file a judicial appeal no later than six weeks after this decision was sent or issued.

Stakeholders established on Saba or Sint Eustatius must submit their appeal in duplicate to the registry of the Court on Sint Maarten. The address of that Registry is: Frontstreet 58 (The Courthouse), Philipsburg, Sint Maarten.

Stakeholders established on Bonaire must submit their appeal in duplicate to the Registry of the Court on Bonaire. The address of that Registry is: Plasa Reina Wilhelmina (Fort Oranje), Kralendijk, Bonaire.

An administrative appeal can also be filed with ACM first

Natural persons and legal persons whose interests have been directly affected by these decisions may also first file an administrative appeal against this decision. A substantiated administrative appeal can be submitted to ACM no later than six weeks after this decision was sent or issued.

Submitting an administrative appeal to ACM on Bonaire

Stakeholders on Bonaire can submit their administrative appeal by post to ACM or deliver it to ACM in person. The address is: Kaya Internashonal z/n, P.O. Box 357, Kralendijk, Bonaire.

Submitting an administrative appeal by e-mail

Stakeholders on Bonaire, Saba and Sint Eustatius can submit their administrative appeal to ACM by e-mail. The appeal must then be sent to: marga.buys@acm.nl and/or laurens.jorg@acm.nl. ACM will send a confirmation of receipt. If the submitter of the appeal receives no confirmation of receipt from ACM, ACM urges the submitter to contact ACM on Bonaire by telephone: +599 781 0084 and/or +599 781 0281.

Submitting an administrative appeal at the local office of Rijksdienst Caribisch Nederland on Saba and Sint Eustatius

Stakeholders on Saba and Sint Eustatius who have no internet connection can also submit the appeal in writing to the local office of Rijksdienst Caribisch Nederland on their island.

Saba: The Bottom

Sint Eustatius: Mazinga Complex A, B, Fort Oranjestraat, Oranjestad.



Annex 1: Calculation model

ACM has published on its website (www.acm.nl) an Excel file containing the calculation model including the calculation of the maximum electricity distribution tariffs for STUCO for 2017. This file has been published as an annex to this decision, forms an integral part of it and can be found on the publication page of this decision at www.acm.nl.