



**DECISION**

**Our reference:** ACM/DE/2017/202769  
**Case number:** 17.0289.52.

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

**Saba Electric Company N.V.**

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.



## 1 Contents

1	Contents .....	2
2	Introduction and reader's guide .....	3
3	Context of this decision.....	4
4	Connection with other decisions .....	6
4.1	From method decision to production price and distribution tariff decision.....	6
4.2	The distribution tariff decision.....	8
4.2.1	The connection tariff.....	9
4.2.2	The fixed consumption tariff.....	9
4.2.3	The variable consumption tariff.....	10
4.2.4	Reconnection tariff (flat-tariff amount for reconnection).....	10
4.3	The process of setting new distribution tariffs .....	11
5	Legal protection .....	12
5.1	What does this mean?.....	12
5.2	Direct judicial appeal.....	13
5.3	... or first an administrative appeal filed with ACM.....	13
6	Setting the distribution tariffs .....	15
6.1	Determining the costs.....	15
6.1.1	The capital costs .....	15
6.1.2	The operating costs.....	16
6.1.3	Additional costs and other revenues .....	17
6.1.4	Total costs.....	18
6.2	Determining the permitted revenues .....	18
6.3	Setting the maximum distribution tariffs .....	18
6.3.1	The connection tariff.....	19
6.3.2	The fixed consumption tariff.....	20
6.3.3	The variable consumption tariff .....	21
6.3.4	The reconnection tariff .....	22
6.4	Retrospective determination of differences .....	22
7	JUDGEMENT .....	24
	Annex 1: Calculation model .....	26



## 2 Introduction and reader's guide

1. By means of this distribution tariff decision the Netherlands Authority for Consumers and Markets (hereinafter: ACM) implements Article 3.9, paragraph 4, and Article 3.14, paragraph 1, of the BES Electricity and Drinking Water Act.<sup>1</sup> 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. Saba Electric Company N.V. (hereinafter: SEC) is a distributor of electricity on Saba.
3. In this decision ACM sets the maximum electricity distribution tariffs which SEC 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 SEC 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 the maximum distribution tariffs of SEC. That section also states how ACM will determine any differences retrospectively. This decision also includes an annex, namely the Excel file 'Calculation Model for SEC Electricity Distribution Tariffs 2017'. That annex is published on the ACM website ([www.acm.nl](http://www.acm.nl)) and forms an integral part of the decision. This decision comes into force on 1 July 2017.

---

<sup>1</sup> 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.<sup>2</sup> 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 more 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 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 fulfil 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. The end users could be disadvantaged in such cases. End users therefore benefit from the promotion of efficiency in business practice.

---

<sup>2</sup> *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 which face competition and to improve both quality and efficiency.
13. SEC has a monopoly position on Saba 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 SEC is permitted to charge end users of electricity. SEC 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 SEC charging unreasonably high distribution tariffs to end users of electricity. It is also important that SEC can recoup the efficient costs which it incurs in the distribution of electricity. If SEC is reimbursed for the efficient costs (including a reasonable return) by means of the tariffs paid by end users, 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 Islands<sup>3</sup>. 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.*

---

<sup>3</sup> Decree by 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 in an amount per kWh or per cubic meter of drinking water and is charged to each customer 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 (m<sup>3</sup>) 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, SEC should have submitted its distribution tariff proposal to ACM no later than 1 April 2017.
36. ACM incorporated the data received on time from SEC in a calculation model, which ACM supplied to SEC. SEC then asked further questions about it and also supplied more detailed documents. ACM provided further explanations to SEC representatives at various times.
37. On 5 April 2017 SEC then finalized and completed its proposal that had been submitted to ACM for the new distribution tariffs.



## 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 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: Plasa Reina Wilhelmina (Fort Oranje), Kralendijk, Bonaire.

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

51. Stakeholders may also choose first to submit an administrative appeal to ACM.
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](mailto:marga.buys@acm.nl) and/or [laurens.jorg@acm.nl](mailto: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. SEC'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 SEC's financial statements, supplemented with additional information on the operating costs and assets which SEC has sent to ACM.

#### 6.1.1 The capital costs

60. In order to determine SEC's capital costs, ACM must first determine the regulatory value of SEC's assets. We call this the regulatory asset value (RAV).

61. SEC's regulatory assets consist of the fixed assets which SEC uses as a distributor of electricity and which it requires for its business operation. This concerns both network assets and inventory.

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 SEC has sent to ACM containing information on all the assets owned by SEC. These are to a large extent assets acquired from N.V. GEBE<sup>4</sup> (hereinafter: GEBE) at the end of 2013; the investments in 2014 and 2015 were made by SEC 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 SEC. ACM chooses not to take into account in advance any residual value (the estimated amount which SEC receives 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 SEC. 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 writedowns resulting from the accelerated depreciation or divestment of an asset are excluded, because such incidental writedowns 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 that 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 SEC of USD 4,564,552 at the end of 2015, with 2015 depreciation of USD 260,433.
68. ACM calculates the reasonable return by multiplying the RAV by the WACC which ACM has determined for 2017, namely 6.57%<sup>5</sup>. The result is USD 299,891. ACM adds to that amount USD 260,433 of depreciation. The total capital costs thus amount to USD 560,324.

### 6.1.2 The operating costs

69. The operating costs also form part of SEC's regulatory costs. ACM has based those costs on the 2015 financial statements supplied by SEC. On the basis of these financial statements and additional data ACM has determined which part of the operating costs can be allocated directly

---

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





to the distribution of electricity. On the basis of the direct costs for production and distribution ACM has then applied an allocation of the indirect costs to the distribution of electricity.

70. The costs of network losses 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). SEC has no doubtful debt expenses because it applies an appropriate disconnection policy. ACM has therefore decided not to set a prescriptive amount for doubtful debt expenses. The doubtful debt expenses are therefore equivalent to the actual costs incurred for doubtful debts in 2015. These amount to zero and ACM therefore includes no doubtful debt expenses.
71. As operating costs for the distribution of electricity ACM takes into account an amount of USD 998,064.
72. 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. In the case of SEC, ACM has on this basis excluded the costs resulting from inventory variations and the costs of provisions for additional personnel costs.

### 6.1.3 Additional costs and other revenues

73. In the method decision for the Caribbean Netherlands, ACM included the possibility of allowing for additional costs in the distribution tariffs if they would be actually incurred in 2017 but were not yet included in the financial statements in 2015.
74. SEC has not entered any additional costs for 2017.
75. ACM takes account of any other SEC 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. SEC receives revenues among other things from waste collection fees. There are also revenues from lease agreements, revenues from late fees and revenues from additional services on the network. ACM prevents these costs being included in the tariff regulation by deducting revenues obtained through these activities in the calculation of total costs for 2015 used to set the total revenues in 2017. For this reason ACM deducts USD 57,224 from the total costs in 2015.
76. Finally ACM takes account of the costs and revenues which SEC had in 2015 from reconstructions 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 reconstructions and new connections SEC 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 SEC of the numbers of reconnections and new connections and their average costs. ACM estimates the costs associated with reconnections to be USD 13,347 and the costs associated with new connections to be USD 35,852. 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 SEC.

#### 6.1.4 Total costs

77. In section 6.1.1 the total capital costs are determined to be USD 560,324. The total operating costs are determined in section 6.1.2 to be USD 998,064. An amount of USD 106,424 of other revenues is also deducted from the regulatory cost base. The total costs on which the 2017 revenues are based thus amount to USD 1,451,964 (2015 price level).

#### 6.2 Determining the permitted revenues

78. The previous section determines SEC's (efficient) costs. In this section ACM determines SEC's permitted revenues.
79. The permitted revenues are equal to the expected costs. In order to calculate those 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  $t$  the percentage difference in the consumer price index for Saba between the third quarter of year  $t-1$  and the third quarter of year  $t-2$  is used. The estimated (expected) inflation which ACM calculates in this way for 2016 amounts to -0.4%, and that for 2017 amounts to 0.20%. The calculation is included in the calculation model in the annex to this decision.
80. The total permitted revenues for 2017 for the distribution of electricity after inflation adjustment amount to USD 1,449,048.

#### 6.3 Setting the maximum distribution tariffs

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



### 6.3.1 The connection tariff

83. In order to calculate the connection tariff, ACM conducted an examination in consultation with SEC to determine the connection capacities for which ACM must set that tariff. In the current situation SEC applies fixed connection tariffs for different types of connections. SEC has stated that these tariffs do not cover the costs.
84. ACM will only set a maximum tariff for the most common connection capacities. The most common connections are connections 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.
85. In the case of projects SEC will issue a quotation for the costs of the connection on request. ACM receives a list of the quotations which SEC has sent for projects, including supporting evidence in which SEC sets out the costs incurred for these projects.
86. On the basis of this information, ACM will carry out monitoring to ensure that SEC 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*

87. 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, clear and promotes legal certainty – including for the distributor, who then knows at what tariff he must install the connection.
88. In order to set the connection tariff for the standard connections, ACM has asked SEC to provide supporting evidence for the costs of installing that standard connection. SEC has supplied that evidence.
89. On the basis of this evidence, it has been ascertained that the costs which SEC incurs for the installation of a connection depend not only on the connection capacity, but also – and to a large extent – on whether excavation work is required. If it is required, the additional costs per meter are substantial. In that case the distance from the network is also relevant. If ACM takes



insufficient account of this, SEC may have too high or too low coverage of the connection costs. Since few new connections are made each year, it is therefore difficult to determine an average length for the costs of these excavation works.

90. ACM therefore opts, provisionally, to set not only a fixed tariff for the connection but also a fixed amount per meter in the event that excavation is necessary. This is a tariff that applies per meter of excavation works, i.e. not for the total length of the connection. If, for example, a total of six meters of excavation work is required for a connection of fifteen meters, the end user pays the standard tariff (including a maximum of 25 meters of cable), plus six times the tariff for the excavation work per meter. In this way end users know in advance where they stand and ACM avoids a situation in which SEC has too high or too low coverage of the costs.
91. ACM sets the connection tariff at USD 250.80 for a 3.2 kVA capacity connection and at USD 281.20 for a 7.7 kVA capacity connection. If excavation work is required to bury the cable, ACM specifies that SEC may charge USD 80 per meter. This amount applies to the standard connections.
92. The costs of the electricity meter are not reimbursed from the connection tariff and are therefore not included in the above tariffs. The costs per meter must be capitalized by SEC and, through the RAV, thus lead to a remuneration in the fixed consumption tariff (the tariff per month).

*The extended length tariff for standard connections*

93. 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, SEC 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 including the first 25 meters.

### 6.3.2 The fixed consumption tariff

94. The law provides that the level of the fixed consumption tariff may differ for different types of connection capacities. ACM has therefore asked SEC to provide details of the different connection capacities which it uses for electricity.
95. 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 SEC 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 1,449,048.

96. ACM has set the total capacity (in kVA) of all end users combined at 12,727 kVA. This figure serves as a calculation value so as to apportion the total revenues over the different capacities.
97. The division of the total permitted revenues by 12,727 produces an amount of USD 113,856 per kVA per year.
98. The fixed consumption tariff set by ACM results from the multiplication of this amount per kVA by the capacity of the connection. For this purpose fixed categories are used (3.2 kVA, 7.7 kVA, 13.3 kVA, etc.), on the basis of the connection capacities which SEC offers to end users. The results of this calculation per capacity are included in Annex 1 to this decision.
99. 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.
100. The Ministry of Economic Affairs has made available a subsidy for the distribution costs incurred by SEC. 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 27.34 per month for connections with a connection capacity of 3.2 kVA and USD 51.16 per month for connections with a connection capacity of 7.7 kVA.
101. This results in the fixed monthly consumption tariffs for the distribution of electricity by SEC as set out in Annex 1.

### 6.3.3 The variable consumption tariff

102. 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 SEC in December 2016. ACM has set this production price for SEC at USD 0.1207 per kWh, with an additional fuel component which varies monthly on the basis of the most recent fuel price.
103. 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 28 March 2017. For that month the fuel price was USD 0.6884 per liter, so the fuel component amounts to USD 0.1770 per kWh. The total production price for the calculation of the variable consumption tariff thus amounts to USD 0.2977 per kWh.



104. A further mark-up must be included in the production price for SEC'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.). That affects all end users. The network loss percentage for SEC in 2015 amounted to 7.18%. The variable production tariff thus amounts to USD 0.3208 per kWh.

#### 6.3.4 The reconnection tariff

105. ACM asked SEC to provide evidence of the costs of reconnecting end users. SEC has supplied that evidence. ACM notes that reconnecting an end user requires SEC 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 SEC are implausible or unreasonable. Accordingly, ACM sets the connection tariff for electricity, regardless of the capacity of the connection, at USD 40.00.

106. In 2017 ACM will monitor whether the amount which SEC charges for a reconnection covers its costs. ACM will carry out that monitoring by asking SEC to supply a list of the number of reconnections and the related costs incurred by SEC. 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

107. In section 5.2 of the method 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 SEC 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).

108. This retrospective examination (the difference analysis) for 2017 is possible at the earliest in 2018, when SEC's actual costs are revealed by the independent audit of the 2017 financial statements.

109. ACM has stated in the method that this retrospective examination includes a correction for estimation errors. In the distribution of electricity by SEC, this concerns the estimate of the numbers of connections per category.



110. If this estimate turns out higher or lower, ACM will apply a correction before examining whether SEC incurred higher or lower costs than previously estimated. ACM will incorporate any differences in the distribution tariffs for 2019.



## 7 JUDGEMENT

111. 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 Saba Electric Company N.V. will charge end users from 1 July 2017, in accordance with Annex 1.
112. 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 Saba Electric Company N.V. will charge end users for the 2017 calendar year, in accordance with Annex 1.
113. 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](http://www.acm.nl)).
114. This decision comes into force on 1 July 2017.

The Hague,  
May 8<sup>th</sup> 2017

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: Plaza Reina Wilhelmina (Fort Oranje), Kralendijk, Bonaire.

### An administrative appeal can also be filed first with ACM

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](mailto:marga.buys@acm.nl) and/or [laurens.jorg@acm.nl](mailto: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](http://www.acm.nl)) the Excel file “Calculation Model for SEC Electricity Distribution Tariffs 2017” including the calculation model containing the calculation of the maximum distribution tariffs for SEC. This file has been published as an annex to this decision, but forms an integral part of it and can be found on the publication page of this decision at [www.acm.nl](http://www.acm.nl).