



DECISION

Our reference: ACM/DE/2017/203400

Case number: 17.0287.52

**Decision setting the maximum drinking water
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 drinking water 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 a drinking water distributor on Sint Eustatius.
3. In this decision ACM sets the maximum drinking water distribution tariffs which STUCO will charge from 1 July 2017 for the distribution of drinking water. 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 drinking water distribution, this concerns five types of tariff:
 - a. the connection tariff
 - b. the fixed consumption tariff
 - c. the variable consumption tariff
 - d. road transportation tariff for drinking water
 - e. 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 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 the 2017 STUCO drinking water distribution tariffs. 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 drinking water. End users have no choice of drinking water distributor. By means of this decision ACM therefore sets the maximum distribution tariffs which STUCO is permitted to charge end users of drinking water. 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 drinking water. It is also important that STUCO can recoup the efficient costs which it incurs in the distribution of drinking water. If STUCO is reimbursed for the efficient costs (including a reasonable return), the necessary investments in quality, and hence the security of supply of drinking water, 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 types of connection capacity. 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 Road transport tariff (only for drinking water)

32. Article 3.18 of the BES Electricity and Drinking Water Act specifies the road transport tariff and how ACM must set it.



“Article 3.18

1. *The road transport tariff for drinking water takes into account the costs associated with the task referred to in Article 3.6, and is increased by the production price referred to in article 2.5, paragraph 2.*
 2. *The road transport tariff for drinking water is charged to each end user who receives drinking water by a means of transport as referred to in Article 3.6.*
 3. *The road transport tariff is expressed as an amount in USD per cubic meter of drinking water.”*
33. The road transport tariff is the amount which end users pay per cubic meter of drinking water for the distribution of drinking water. This fixed cubic meter price for drinking water by truck includes the costs incurred by the distributor to supply drinking water by truck.

4.2.5 Reconnection tariff (flat-tariff amount for reconnection)

34. 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.”*
35. 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

36. 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.
37. 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.
38. 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.
39. On 24 March 2017 STUCO then submitted its proposal for the new distribution tariffs to ACM.



5 Legal protection

40. 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.
41. 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.
42. 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.
43. 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.
44. 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).
45. 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.
46. 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?

47. 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.

48. 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.
49. 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...

50. 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.
51. 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.
52. 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

53. Stakeholders may also choose to submit an administrative appeal to ACM first.
54. 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.
55. 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.



56. 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.

57. 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.
58. 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

59. 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.
60. ACM describes the above four steps in this section of this distribution tariff decision.

6.1 Determining the costs

61. STUCO's costs consist of capital costs and operating costs. Capital costs comprise depreciation and a reasonable return. Operating costs are costs incurred by a company 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

62. 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).
63. STUCO's regulatory assets consist of the fixed assets which STUCO uses as a distributor of drinking water and which it requires for its business operation. These comprise in part land, buildings and machinery. It should be noted, however, that the main constituent of the water assets has not yet passed into STUCO's ownership. Therefore, these assets cannot currently be attributed to STUCO's RAV for water distribution. The RAV does, however, include the part of the indirect assets (mainly inventory) allocated to the distribution of drinking water.
64. The depreciation of the fixed assets and a reasonable return on the regulatory asset value are part of 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.
65. ACM bases its determination of the regulatory value of the fixed assets on the historical cost which companies enter in their financial records. By reducing the historical cost by the amount



of accumulated depreciation, ACM arrives at the regulatory asset value as at 31 December 2015.

66. 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.
67. This excludes one-off write-downs resulting from the accelerated depreciation or divestment of an asset, because such one-off write-downs are not considered representative of depreciation charges in 2017.
68. 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.
69. ACM allocates the RAV and depreciation to transport by tanker by analyzing the share of consumption of water supplied by tanker as a proportion of the total consumption.
70. Having regard to the foregoing, ACM has arrived at an RAV for the distribution of drinking water (via the network) by STUCO of USD 250,288 at the end of 2015, with associated depreciation in 2015 of USD 16,989. For the distribution of drinking water by tanker ACM has arrived at an RAV of USD 6,826 at the end of 2015, with associated depreciation of USD 480.
71. ACM calculates the reasonable return by multiplying the RAV by the WACC which ACM has set for 2017, namely 6.74%⁴. The result is USD 16,869 for distribution and USD 460 for the distribution of drinking water by tanker. In the case of distribution ACM adds to that amount USD 16,989 of depreciation. The total capital costs for distribution thus amount to USD 33,858. The total capital costs for distribution of drinking water by tanker amount to USD 940. These are amounts expressed at the 2015 price level.

⁴ Calculating the WACC for energy and water companies in the Caribbean Netherlands, ACM/DE/2016/206939, marginal 7 (electricity & water combined)



6.1.2 The operating costs

72. 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 drinking water. ACM has adopted this allocation. The costs of leakage losses do not form part of these operating costs, because leakage losses are reimbursed by means of a mark-up on the variable consumption tariff (the tariff per m³).
73. STUCO also has overheads, which it has not yet allocated to the primary activities. To allocate these indirect costs to the primary activities, ACM uses the direct costs as an allocation ratio.
74. 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.
75. 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 the amount of revenue at approximately USD 550,000 (at the 2015 price level), so the expected costs of doubtful debts (1% of this) are estimated to amount to USD 5,500. Of this, USD 4,944 is attributable to distribution through the network and USD 556 to distribution by truck.
76. 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.
77. As operating costs for the distribution of drinking water via the network ACM takes into account an amount of USD 376,081. The total operating costs for distribution of drinking water by tanker amount to USD 6,083. These amounts include the flat-tariff costs for doubtful debts and are expressed at the 2015 price level.



6.1.3 Additional costs and other revenues

78. 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.
79. STUCO has not entered any additional costs for the distribution of drinking water via the network. For the distribution of drinking water by tanker, ACM includes additional costs of USD 42,009 (2016 price level). These are additional operating and capital costs because STUCO purchased a tanker in 2016. If ACM does not take this into account, ACM will set the costs of drinking water by truck too low, whereas STUCO demonstrably incurs these costs.
80. 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 water. STUCO did have a small *negative* amount of other revenues in 2015 (revenues of USD -2,343, which is essentially a small additional cost item). For this reason ACM deducts this negative amount (at the 2015 price level) from the total costs in 2015.
81. 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 28,120 and the costs associated with new connections to be USD 29,500. 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

82. In section 6.1.1 the total capital costs for the distribution of drinking water via the network are determined to be USD 33,858.



83. The total operating costs are determined in section 6.1.2 to be USD 376,081 (including doubtful debts). A total amount of USD 55,277 is deducted from the regulatory cost base in connection with costs associated with other revenues (mainly revenues from new connections and reconnections). The total costs thus amount to USD 354,662. These costs are at the 2015 price level.
84. For the distribution of drinking water by tanker ACM has set the total capital costs in section 6.1.1. at USD 940. Total operating costs amount to USD 6,083 (including the mark-up for doubtful debts). ACM includes a total of additional costs of USD 42,221 (the costs of the truck recalculated at the 2015 price level). There are no other revenues. The total costs thus amount to USD 49,243 for the distribution of drinking water by truck (at the 2015 price level).

6.2 Determining the permitted revenues

85. The previous section states STUCO's (efficient) costs. In this section ACM determines STUCO's permitted revenues for the distribution of water.
86. The permitted revenues are equivalent to the 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 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.
87. The total permitted revenues for 2017 for the distribution of drinking water via the network after inflation adjustment amount to USD 349,713. The total permitted revenues for 2017 for the distribution of drinking water by tanker after inflation adjustment amount to USD 48,556.

6.3 Setting the maximum distribution tariffs

88. 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.
89. ACM describes how it determines this for each type of tariff.

6.3.1 The connection tariff

90. 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.

91. On Sint Eustatius all end users of drinking water have the same connection capacity. ACM will therefore only set a maximum tariff for this standard capacity. This tariff applies to connections installed within 25 meters of the network.
92. 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 price he must install the connection.
93. In order to set the connection tariff for the standard connections, ACM has asked STUCO to provide supporting evidence for the costs of installing that standard connection. STUCO has supplied that evidence.
94. On the basis of this evidence ACM sets the connection tariff for a drinking water connection at USD 252. The costs of the water 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).
95. 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.
96. 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

97. 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

98. The law provides that the level of the fixed consumption tariff may differ for different types of connection capacity. For drinking water STUCO applies only a standard capacity. Therefore, in the case of STUCO, ACM applies a single fixed consumption tariff for all end users.
99. To calculate this tariff, ACM divides the total permitted revenues which STUCO can receive for the distribution network by the total number of connections. In section 6.2 of this decision ACM has set the total permitted revenues at USD 349,713.
100. ACM has set the number of connections at 605. The division of the total permitted revenues by this number produces an amount of USD 48.17 per connection per month.
101. Finally, ACM deducts the subsidy provided by the Ministry of Infrastructure and the Environment from the fixed consumption tariff, under Article 5.1, paragraph 1, of the BES Electricity and Drinking Water Act.
102. The Ministry of Infrastructure and the Environment has made available a subsidy of USD 41.32 per connection per month.
103. ACM thus sets the maximum fixed consumption tariff which STUCO is permitted to charge end users of drinking water at USD 6.85 per month.

6.3.3 The variable consumption tariff

104. The variable consumption tariff, i.e. what an end user pays for the quantity of drinking water 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 6.2340 per cubic meter.
105. A further mark-up for STUCO's leakage losses must be included in the production price. The transportation of drinking water to an end user often entails a loss of part of the drinking water (due to leaks in the pipes). This affects all end users. The percentage of leakage loss for STUCO in 2015 amounted to 19.0%. The variable production tariff thus amounts to USD 7.70 per cubic meter of drinking water.

6.3.4 The reconnection tariff

106. 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 the costs presented by STUCO to be implausible or unreasonable. Accordingly, ACM sets the reconnection tariff for drinking water at USD 40.00.

107. 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 will need to be adjusted for 2018.

6.3.5 Road transportation tariff

108. ACM has set the cost of drinking water supplied by truck at USD 48,556 for 2017 (see section 6.2). STUCO has estimated the total quantity of drinking water which it expects to distribute by truck in 2017 at 2,400 cubic meters. The cost therefore amounts to USD 20.23 per cubic meter of drinking water.
109. The Ministry of Infrastructure and the Environment has made available a subsidy of USD 11.47 per cubic meter of drinking water distributed by truck.
110. The production price for drinking water of USD 6,234 per cubic meter of drinking water (excluding leakage losses) leads to a road transportation tariff for drinking water of USD 15.00 per cubic meter of drinking water.

6.4 Retrospective determination of differences

111. 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. According to 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).
112. This retrospective examination (difference analysis) for 2017 will be possible in 2018 at the earliest, when STUCO's actual costs are revealed by the independent audit of the 2017 financial statements.



113. ACM has stated in the method that this retrospective examination includes a correction for estimation errors. Specifically with regard to the distribution of drinking water by STUCO, this concerns the following estimates:

- Estimate of volume of distribution of drinking water by tanker
- Estimate of number of connections to drinking water network

114. 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

115. 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 drinking water distribution tariffs which St. Eustatius Utility Company NV will charge end users from 1 July 2017, in accordance with Annex 1.

116. 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 drinking water reconnection tariff which St. Eustatius Utility Company NV will charge end users from 1 July 2017, in accordance with Annex 1.

117. 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).

118. This decision comes into force on 1 July 2017.

The Hague,

Date: June 13th 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 drinking water 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.