



## Decision

### Variable usage tariff electricity July 1, 2023

Our reference : ACM/UIT/599145  
Case number : ACM/23/181651  
Date : 8<sup>th</sup> June 2023

## Decision setting the maximum variable usage tariff for electricity with effect from July 1st, 2023 for:

### St. Eustatius Utility Company N.V.

Determination by the Netherlands Authority for Consumers and Markets of the maximum variable usage tariff for electricity as referred to in Section 3.14, paragraph 1, paragraph 2(c) and paragraph 6, and Section 3.17, paragraph 3, of the BES Electricity and Drinking Water Act.

*This document is an English translation of the Dutch version "Beschikking tot vaststelling van het maximale variabele gebruikstarief van elektriciteit per 1 juli 2023 voor St. Eustatius Utility Company N.V.". In case of inconsistencies or possible interpretation difference between the Dutch version and this English translation, the Dutch version prevails.*

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## 1. Introduction and reader's guide

1. By means of this tariff decision, the Netherlands Authority for Consumers and Markets (hereinafter: ACM) implements Section 3.14, paragraph 1, paragraph 2(c) and paragraph 6, and Section 3.17, paragraph 3, of the BES Electricity and Drinking Water Act.<sup>1</sup> Under those sections, ACM is required to set the maximum variable usage tariff for electricity that the distributor will charge end-users for the distribution of electricity. That tariff can be set with effect from January 1st and July 1st of each calendar year.
2. St. Eustatius Utility Company N.V. (hereinafter: STUCO) is an electricity producer and distributor on St. Eustatius.
3. In this decision, ACM sets the maximum variable usage tariff that STUCO will charge from July 1st, 2023 for the distribution of electricity. Where ACM uses the formulation 'maximum tariff' in this decision, it refers to the maximum tariff that STUCO is permitted to charge.
4. This decision consists of a number of sections. Section 2 provides the context of this decision. Section 3 sets out the connection with other decisions. Section 4 sets out successively the costs, revenues and maximum variable usage tariff for electricity. This decision also contains two annexes, namely an overview of the main calculated amounts (Annex 1) and the Excel file 'Berekening variabel gebruikstarief elektriciteit STUCO per 1 juli 2023' (Annex 2). Annex 2 is published on the ACM website ([www.acm.nl](http://www.acm.nl)) and forms an integral part of the decision.
5. This decision comes into force on July 1st, 2023.

## 2. Context of this decision

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<sup>1</sup> Law of 23 March 2016, containing rules for the production and distribution of electricity and drinking water on Bonaire, Sint Eustatius and Saba (Wet elektriciteit en drinkwater BES), Government Gazette 2016, 142.

6. 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.
7. Section 2.5, paragraph 1, of the BES Electricity and Drinking Water Act mandates ACM, to the extent relevant here, to set a maximum production price for electricity with effect from January 1st of each year. The production price is charged by the producer to the distributor. Under Section 2.5, paragraph 3, of the BES Electricity and Drinking Water Act, energy costs (i.e. fuel costs) are set as a monthly variable part of the production price.
8. Under Section 3.14, paragraph 1, paragraph 2(c) and paragraph 6, of the BES Electricity and Drinking Water Act, ACM is required to set the maximum variable usage tariff for electricity that the distributor will charge end-users for the distribution of electricity. That tariff can be set with effect from January 1st and July 1st of each calendar year.
9. The legal possibility of adjusting the variable usage tariff for electricity with effect from July 1st of a calendar year is related to changes in fuel costs, as part of the aforementioned production price. If fuel costs rise (or fall), the electricity production price will also rise (or fall). Under Section 2.5, paragraph 3, of the BES Electricity and Drinking Water Act, the producer can pass on those cost changes to the distributor on a monthly basis. Under Section 3.14, paragraph 6, the distributor can incorporate those cost changes twice a year in the tariffs for the end-user (with effect from January 1st and July 1st).
10. This means that in the event of a rise in fuel costs, a distributor will have to pre-finance those costs for several months before the end-user starts to bear them. In the event of a decrease in fuel costs, the end-user will have to wait several months before that decrease in costs is incorporated in the variable usage tariff.
11. By means of this decision, ACM sets the maximum variable usage tariff for electricity which STUCO will charge from July 1st, 2023 for the distribution of electricity.

### 3. Connection with other decisions

12. Every year, ACM sets the cost-covering (maximum) production price that a producer of electricity is permitted to charge a distributor of electricity. ACM also sets the cost-covering (maximum) usage tariffs that a distributor is permitted to charge end-users.

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<sup>2</sup> *Parliamentary papers II*, 2014-15, 34089, 3, p. 1.

13. With regard to the electricity production price and the variable usage tariff for electricity for 2023 for STUCO, ACM has adopted the following decisions:
- Decision dated December 15, 2022 setting the maximum production price of electricity for the 2023 calendar year for STUCO (reference: ACM/UIT/589012, case number ACM/22/176893).
  - Decision dated December 15, 2022 setting the maximum usage tariffs for electricity with effect from January 1st, 2023 for STUCO (reference: ACM/UIT/589016, case number ACM/22/176893).

*Process used to adjust the variable usage tariff for electricity*

14. In accordance with Section 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 a tariff amendment.
15. In the explanatory notes of the Ministerial Decree on Electricity and Drinking Water in the BES Islands, the legislature considers that Section 2.5, paragraph 3, of the BES Electricity and Drinking Water Act offers the possibility of setting energy costs as a monthly variable part of the production price. Therefore, for that part of the production price there is no three-month time limit for the submission of a production price proposal.
16. Although Section 2.5, paragraph 3, of the BES Electricity and Drinking Water Act relates to the electricity production price, ACM sees no grounds for applying the aforementioned three-month time limit in the event of an adjustment to the variable usage tariff due to changes in fuel costs.
17. This position is also based on the legislature's intention in Section 3.14, paragraph 6, of the BES Electricity and Drinking Water Act, namely to take account of changes in fuel costs as a result of global movements in the oil price. According to ACM, that intention on the part of the legislature means that any adjustment to the variable usage tariff must be based on the most recent (i.e. up-to-date) fuel costs. If ACM were to adhere (strictly) to a three-month time limit for the submission of the aforementioned tariff proposal by a distributor, the incurred fuel costs would be less up to date than desired.
18. Therefore, in the half-yearly adjustment of the variable usage tariff for electricity, ACM will not require the distributor to submit a tariff proposal three months before the date of July 1st, 2023.
19. ACM sent STUCO the draft calculation model on May 31<sup>st</sup>, 2023, after which STUCO was given an opportunity to respond to the draft calculation model. STUCO responded to the draft calculation model on June 1<sup>st</sup>, 2023. ACM has included this response when determining the definitive calculation model.

## 4. Setting of the variable usage tariff for electricity

20. ACM is adjusting the variable usage tariff with effect from July 1st, 2023 due to changes in fuel costs. ACM first describes which part of the variable usage tariff consists of the fuel costs. We then explain the two components that make up the adjustment with effect from July 1st, 2023.

*Fuel costs as part of the variable usage tariff*

21. ACM has set the variable usage tariff by increasing the production price of STUCO by the cost of network losses. That means that with the variable usage tariff per kWh the end-user pays the costs that the distributor STUCO incurs for the purchase of electricity per kWh from the producer STUCO.
22. The fuel costs are part of the production price of STUCO and have been set separately in the production price decision as the fuel component. The fuel component is set on the basis of a formula that takes into account the fuel price on the most recent fuel invoice. The producer updates the fuel component monthly on the basis of the fuel price on the most recent fuel invoice at that time. In most cases this is the invoice for month T-2. The production price of STUCO for March is therefore based in principle on the fuel price in January.
23. Hence there is a difference between the fuel component of the production price that the distributor STUCO pays monthly to the producer STUCO (as an internal transfer price) and the fuel component that the distributor STUCO charges end-users through the variable usage tariff.

*Method of calculating the adjustment of the variable usage tariff*

24. The adjustment of the variable usage tariff consists of two components:
  - 1) The offset (retrospective costing) in respect of past differences between the actual fuel component that the producer charges the distributor monthly through the production price and the fuel component estimated by ACM in the variable usage tariff;
  - 2) The adjustment of the estimate of the fuel component of the production price in the variable usage tariff with effect from July 1st, 2023 based on the most recent fuel price.

*First component: Offset (retrospective costing)*

25. In this decision, ACM offsets the movements in fuel costs that have arisen in the period since the previous offset, which ran up to the end of October 2022. The first month for which ACM offsets the movements is therefore November 2022.
26. ACM offsets the differences up to the end of April 2023. When setting the variable usage tariff with effect from January 1, 2024, ACM will carry out the retrospective costing from May 2023.
27. For the months November 2022 up to and including April 2023, ACM calculates the difference between the fuel component charged in the variable usage tariff and the monthly variable fuel component as part of the production price of STUCO. ACM multiplies these differences by the volume of electricity which STUCO produced in those months. The result is the amount which ACM offsets in the variable usage tariff with effect from July 1st, 2023. In the case of the 2022 amounts, ACM takes into account the effect of the time between the year to which the correction refers and the year in which it takes place. ACM does this by correcting corrections between years for inflation and the time value of money by using the statutory interest rate for the Caribbean Netherlands.

*Second component: Adjustment based on most recent fuel price*

28. As the second component of the adjustment of the variable usage tariff with effect from July 1st, 2023, ACM re-estimates the fuel component of the variable usage tariff. ACM does this by basing the variable usage tariff on the production price with the most recent fuel price.

*Conclusion*

29. These two components lead to the adjusted variable usage tariff with effect from July 1st, 2023 in the following way. ACM incorporates the offsetting of past differences. This mark-up consists of the total amount to be offset, divided by the estimated volume of electricity which STUCO will purchase in the second half of 2023.
30. ACM adds this mark-up to the production price, on the basis of the most recent fuel price. ACM then offsets the network losses in order to arrive at the variable usage tariff (in accordance with the setting of

the variable usage tariff with effect from January 1st, 2023).

31. For the detailed calculation, ACM refers to the calculation model (Annex 2), which forms part of this decision. Annex 1 to this decision shows the main calculated amounts.

## 5. Provisions

32. Under Section 3.14, paragraph 1, paragraph 2(c) and paragraph 6, and Section 3.17, paragraph 3, of the BES Electricity and Drinking Water Act, the Netherlands Authority for Consumers and Markets sets the maximum variable usage tariff for electricity which St. Eustatius Utility Company N.V. will charge end-users from July 1st, 2023. That tariff amounts to USD 0,3714 per kWh.

33. This decision and its annexes 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)).
34. This decision comes into force on July 1st, 2023.

The Hague,  
Date: 8<sup>th</sup> June 2023

Netherlands Authority for Consumers and Markets,  
on its behalf,

mr. dr. M. Aelen  
Team Manager Energy Department

**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. Stakeholders can submit their administrative appeal to ACM by e-mail. The appeal must be sent to: [procedurescn@acm.nl](mailto:procedurescn@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 by telephone on: +31 (0)70 722 23 13.*

## Annex 1: Overview of amounts

In this annex, ACM presents an overview of the amounts to which reference is made in this decision in Section 4. ACM has included the detailed calculation in the calculation model (Annex 2).



Key figures decision for variable usage tariff 1 July - 31 December 2023		
<b>Key Parameters</b>		
Wettelijke rente CNL ('legal fixed interest rate')	%	3,00%
<b>Updated estimation production price</b>		
Most recent fuel price (20 May 2023)	USD/liter	1,0282
Updated estimation of production price per 1 July 2023	USD/kWh, pl 2023	0,3365
<b>Correction for fuel price differences</b>		
Correction amount for November - December 2022	USD, pl 2022	73.407
Correction amount for January - April 2023	USD, pl 2023	-126.308
Total amount fuel component correction	USD, pl 2023	-50.699
Estimated production volume July to December 2023	kWh	8.886.840
Add-on per kWh for fuel price difference	USD/kWh, pl 2023	-0,0057
<b>Correction on variable usage tariff 2022</b>		
Correction per kWh - Profit sharing: network losses 2021	USD/kWh, pl 2023	-0,0003
<b>Adjusted variable usage tariff</b>		
Updated estimation of production price per 1 July 2023	USD/kWh, pl 2023	0,3365
Total corrections per kWh in variable usage tariff per 1 July 2023	USD/kWh, pl 2023	-0,0060
Estimated network losses 2023	%	11,00%
Variable usage tariff for the period 1 July - 31 December 2023	USD/kWh, pl 2023	0,3714
Note: 'pl' represents price level		

An overview of amounts. 1

## Annex 2: Calculation variable usage tariff electricity

ACM has published on its website ([www.acm.nl](http://www.acm.nl)) the Excel file “Berekening variabel gebruikstarief elektriciteit STUCO per 1 juli 2023” containing the calculation model including the calculation of the maximum tariffs for STUCO. 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](http://www.acm.nl).