



Decision – Opinions on the draft method decision

Annex to the method decision on electricity and drinking water in the Dutch Caribbean 2026 – 2031

Our reference : ACM/UIT/652067
Case number : ACM/24/187957

Opinions on the draft method decision on electricity and drinking water in the Dutch Caribbean 2026 – 2031

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1. Introduction and reader's guide

1. For the purposes of careful decision-making for the adoption of method decisions, ACM offered stakeholders an opportunity to submit opinions. In this annex, ACM considers the opinions submitted by interested parties on the draft method decision on electricity and drinking water in the Dutch Caribbean 2026-2031.¹
2. The following interested parties submitted opinions on the method to ACM:
 - Saba Electric Company N.V. (hereafter: 'SEC', submitted in writing by e-mail on July 9th, 2025)
 - St. Eustatius Utility Company N.V. (hereafter: 'STUCO', submitted in writing by e-mail on July 9th, 2025)
 - Water en Energiebedrijf Bonaire N.V. (hereafter: 'WEB', submitted in writing by e-mail on July 9th, 2025)
 - ContourGlobal Bonaire B.V. (hereafter: 'CGB', submitted in writing by e-mail on July 4th, 2025)
3. For each opinion, a table shows which respondents submitted the opinion and whether the opinion has led to a change in the draft method decision.² Each opinion is accompanied by a response and a conclusion from ACM.

¹ Stakeholders as referred to in Article 2.1, paragraph 1, of the BES Electricity and Drinking Water Regulation.

² An amendment to the text of the method decision or an amendment or addition to the grounds for the method decision is also deemed to constitute a change.

2. Opinions on the procedure and the rationale for the method

4. In this section, ACM considers opinions relating to Chapter 2 of the draft method decision.

Opinion 1: “Impact analysis”

Respondents	Does it lead to a change in the method?
SEC/STUCO/WEB	No

Summary opinion

5. Parties (SEC, STUCO and WEB) mention that, despite their repeated requests and the submission of opinions, an impact analysis continues to be lacking. Logically, a methodology should be assessed for its short- and long-term effects. Due to the absence of such analysis, there is no insight into, for example, whether the companies can remain financially viable or whether necessary replacement and expansion investments can be made. Parties request ACM to do an impact analysis to assess the effects of the proposed methodology.

ACM’s response to the opinion

6. Parties (at least WEB) have indeed made this point more than once, e.g. in response to the draft method decision for 2019-2025.³ ACM still does not see why an impact analysis is necessary and thus does not intend to undertake such an analysis. The new method with the methodological changes compared to the 2019-2025 period was made after a careful process of consultations and discussions with parties, and takes eight years of experience with tariff regulation in the Dutch Caribbean into account.
7. By design the tariff regulation works such that parties reimburse the efficient cost they make through tariffs. Eight years of experience with similar methods reveal that the method functions well, which is a sanity check by itself, even the best one possible. Moreover, ACM does not see how the proposed changes in the method compared to the current method would worsen the possible issues that parties have addressed in the consultations and discussions.

Conclusion on the opinion

8. This opinion does not lead to a change of the method decision as compared to the draft method decision.

³ Zienswijzebijlage methodebesluit Caribisch Nederland (Engels), ACM.nl.

3. Opinions on the method of regulation

9. In this section, ACM considers opinions relating to Chapter 5 of the draft method decision. As this is a large chapter, ACM breaks down the answer to the opinions on the basis of a number of underlying subjects in this chapter.

3.1. Opinions on the general method of regulation

10. This section deals with the general opinions relating to chapter 5 of the draft method decision.

Opinion 2: “The new method is a missed opportunity regarding several issues”

Respondents	Does it lead to a change in the method?
SEC/STUCO/WEB	No

Summary opinion

11. Parties (SEC, STUCO, and WEB) state that it is a missed opportunity that the proposed new method, apart from some relatively small changes (such as the sustainability incentive and the option to account for extraordinary events not fully covered by instantaneous volume growth) remains the same compared to the current methodology. Parties believe it does not adequately address the challenges they currently face, such as island growth and the energy transition.
12. Parties request ACM to address several issues in the new method. Such issues often revolve around unnecessary pre-financing, the challenges of keeping their businesses financially healthy, and the ability to make expansion and replacement investments. Parties add that these effects tend to reinforce one another. Unnecessary pre-financing, for example, also leads to a weakening in solvency.

ACM's response to the opinion

13. The issues that parties mention are addressed in separate opinions, to which ACM will respond separately in this annex. ACM does not agree with parties that the sole fact that they do not agree with all aspects of the method means that ACM is not aware of issues that parties mention or did not consider these issues.

Conclusion on the opinion

14. This opinion by itself does not lead to a change of the method decision. Separate issues, however, are dealt with elsewhere in this annex.

Opinion 3: “Solvency”

Respondents	Does it lead to a change in the method?
SEC/STUCO/WEB	No

Summary opinion

15. Parties (SEC, STUCO, and WEB) mention that by law they are required to maintain a certain level of solvency. Parties believe the methodology, however, contains no guarantees to help achieve this. Moreover, the method does not even contain a monitoring mechanism to determine whether the minimum level is being approached.
16. Parties request that achieving and maintaining solvency be made an integral part of the methodology.

ACM's response to the opinion

17. Solvency is primarily concerned with the way parties finance their operation and investments and this is first and foremost a matter between parties and their shareholders. As long as, in structural terms, the

tariff regulation sets maximum tariffs that cover costs (which ACM believes is the case by design of the method) the solvency issues, if any, will have to be addressed with the relevant shareholder.

Conclusion on the opinion

18. This opinion does not lead to a change of the method decision.

3.2. Opinions on the general method of regulation

19. This section deals with the opinions relating to section 5.2 of the draft method decision.

Opinion 4: “T-2 regulation”

Respondents	Does it lead to a change in the method?
SEC/STUCO/WEB	No

Summary opinion

20. Parties (SEC, STUCO, and WEB) mention that the T-2 regulation remains problematic, particularly for growing companies. Parties state that this leads to prolonged undercoverage of costs, resulting in challenges with liquidity and financing costs.

21. Parties request that allowed revenues be based more on estimated and/or current costs and urge ACM again to give more consideration to this matter.

ACM's response to the opinion

22. For this method, ACM uses profit sharing to incentivize efficiency. Profit sharing means that a part of the difference between estimated and realized costs is either a profit or a loss to the parties. This gives an incentive to minimize costs and thus increase profits. An important condition for profit sharing to work effectively, is that cost estimates are primarily based on observed and audited costs. This allows for objective estimations and prevents gaming the profit sharing mechanism (note that under profit sharing parties have an incentive to over-estimate cost as half of the over-estimation turns into an unreasonable additional profit.).

23. As such cost estimations are based on audited annual accounts of parties. The decisions for year T are drafted in year T-1, when the most recent annual account reports on year T-2. Using more recent data is not feasible as parties would then have to deliver approved accounts over the first half of T-1 to ACM in time for drafting tariff decisions. This would lead to a significant increase of the administrative burden that parties carry. Given eight years of regulatory experience, ACM is convinced that such an approach will not work.

24. Moreover, ACM is not convinced that using a bit more recent information than annual accounts would improve the regulation to an extent that it significantly reduces financial risks to parties. ACM believes that the quality of cost estimations will benefit much more from improving and accelerating estimates by parties about e.g. investments or drinking water losses in subsequent years. This, however, is not something that can be arranged for in a method decision, but will have to be addressed and improved operationally year by year.

25. Having said that, ACM emphasizes that where possible ACM used more recent data with the new method compared to the method for 2019-2025, notably for recalculating the fuel cost, the cost of debt and the risk free rate in the WACC. The major occurrence feature of the method is also based on projections rather than historic data. Hence, ACM has done what it reasonably could to use the most recent information for the tariff decisions.

Conclusion on the opinion

26. This opinion does not lead to a change of the method decision.

Opinion 5: “Work in progress and inventories”

Respondents	Does it lead to a change in the method?
SEC/STUCO/WEB	No

Summary opinion

27. Parties (SEC, STUCO, and WEB) argue that unavoidable financing costs are incurred for work in progress and inventories and that the methodology does not cover these costs. The only current provision is the option to capitalize construction interest in certain cases. However, this means the cost is only reimbursed over a long period, resulting in long-term pre-financing, which is precisely what parties aim to avoid. Parties request a WACC-based return on work in progress and inventories.

ACM’s response to the opinion

28. The question raised here is whether these costs should be capitalized together with the rest of the costs of the investments, or whether they should immediately be included in the tariffs with a WACC-based return on work in progress. As ACM sees this, the question is not whether these financing costs should be seen as a cost (they already are seen as such in the method), but whether the method should be changed to bring the income forward with a return on the work in progress.
29. ACM believes it is undesirable to include costs of investments that are not actually put in use in tariffs. I.e. if a company purchases products without using them to provide water or electricity, they should not be part of the tariffs. By capitalizing investment costs from the moment the investment is put in use, like in the current system, this is prevented. Only investments that are actually being used will then be included in the tariffs. Upfront determining whether or not work in progress will lead to an asset put in use is hardly possible and it will also require a substantial administrative burden to claw back cost from tariffs in case such costs did not lead to an asset put in use.
30. Moreover, parties do not make clear what exactly the financial problem is and how significant it is. ACM is not aware of such problem.

Conclusion on the opinion

31. This opinion does not lead to a change of the method decision.

Opinion 6: “Pre-financing of electricity fuel costs”

Respondents	Does it lead to a change in the method?
SEC/STUCO/WEB	No

Summary opinion

32. Parties (SEC, STUCO, and WEB) mention that, because the tariff can only be adjusted twice a year, parties are repeatedly faced with high pre-financing needs. This is detrimental during both rising and falling fuel prices. Apart from the significant liquidity burden on parties, it results in sharp fluctuations in tariffs due to large true-ups. Parties propose to create a regulatory buffer for the parties through a small tariff surcharge. This buffer could then serve as a smoothing mechanism.

ACM’s response to the opinion

33. ACM believes that normal issues of pre-financing like these are the task and responsibility of parties and their shareholders. Also, over the 8 past years of regulation, ACM has not observed any detrimental issue with pre-financing or issues with tariffs rising or falling beyond expectation or reason.
34. ACM further considers that such mechanism may imply that each party would effectively set up a sort of collective savings account for customers. It would at least come with the responsibility for parties to

keep the buffer ringfenced and secured to prevent that it can be used for other purposes, and the strict supervision of ACM and accountants to see to that. It would also introduce additional, and likely complex, analysis and discussions of how much to buffer or release at any time and under various circumstances.

- 35. The law already contains a provision to soften the impact of fluctuations, by allowing a tariff-correction every half year. Creating a buffer is not an option provided by the law, nor was it the intention of the law.
- 36. Apart from this, parties do not show that pre-financing fuel cost is structurally problematic or that incidental problems are caused by tariff regulation, nor has the ACM seen signals of that.

Conclusion on the opinion

- 37. This opinion does not lead to a change of the method decision.

Opinion 7: “Unnecessary pre-financing of electricity to produce drinking water”

Respondents	Does it lead to a change in the method?
SEC/STUCO/WEB	No

Summary opinion

- 38. Parties (SEC, STUCO, and WEB) argue that, although the effect is greater in electricity, there is also unnecessary pre-financing in drinking water. This is caused by the electricity tariff being adjusted twice per year, while the drinking water tariff is only adjusted once per year. By law, the drinking water tariff could also be adjusted twice per year. Parties request ACM to consider this.

ACM’s response to the opinion

- 39. It is indeed possible to adjust the drinking water tariffs twice a year. However, like parties acknowledge, the material impact here is much smaller than it is for electricity. This adjustment would only reflect changes in fuel prices. For drinking water, this translates to changes in the electricity price as a result of changes in fuel prices. The impact of changing fuel prices on variable drinking water tariffs is less than half of the impact on electricity tariffs, because electricity costs are less than half of the costs in the variable drinking water tariffs. Hence, ACM does not see the necessity of an intermediate update of drinking water tariffs like done with electricity.

Conclusion on the opinion

- 40. This opinion does not lead to a change of the method decision.

Opinion 8: “Setting the renewable share used in tariff calculations”

Respondent	Does it lead to a change in the method?
CGB	No

Summary opinion

- 41. CGB addresses the current methodology’s approach to setting the renewable share used in tariff calculations. At present, this share is fixed on an annual basis and directly affects fuel-related revenues through the passthrough mechanism. However, renewable generation is inherently variable throughout the year due to resource fluctuations (e.g. wind seasonality). When actual renewable shares fall short of annual estimates, producers face under-recovery of fuel costs, effectively eroding margins and threatening financial sustainability.
- 42. CGB proposes updating the renewable share on a monthly basis, utilizing actual data from the preceding month. This adjustment would reflect the natural variability of renewable resources more

accurately, ensure the passthrough mechanism functions as intended, and provide a fairer, more dynamic alignment between realized and forecasted renewable contributions.

ACM's response to the opinion

- 43. The tariffs that the end-users pay are and can legally only be changed twice a year. That means that if the volumes or the price of the fuel used is different from what was predicted, someone will have to prefinance these costs. Some prefinancing risks are therefore inevitable. However, all of these costs are fully reimbursed based on realized costs, including the costs that result from renewable shares falling short of the annual estimate. ACM does not see a problem with the margins or financial sustainability.
- 44. Also, what CGB proposes here would not eliminate prefinancing risks. It would only shift the prefinancing risk to WEB. In the current method both the producer (CGB) and the distributor (WEB) bear a part of the risk. The producer bears the volume risks and the distributor bears the price risks. In CGB's proposal, however, WEB would bear all the risks. ACM does not believe that this is reasonable.

Conclusion on the opinion

- 45. This opinion does not lead to a change of the method decision.

Opinion 9: "Subsidized assets"

Respondents	Does it lead to a change in the method?
SEC/STUCO/WEB	No

Summary opinion

- 46. Parties (SEC, STUCO, and WEB) mention that, despite repeated requests, no consideration has been given in the methodology to the issue of subsidized assets. Under the current methodology, no income is granted on these assets (in terms of depreciation or WACC), which prevents companies from building a buffer (equity) for future replacement investments.
- 47. Given the current political climate, parties have little confidence that subsidies will be available again in the future. Parties call to consider the possibility that these replacement investments will need to be funded independently. This requires capital to be built up in advance, which must be enabled through tariffs and the underlying methodology. Parties request that a solution for this issue be included in the final methodology decision.

ACM's response to the opinion

- 48. ACM understands that STUCO and SEC have limited access to capital markets and depend for investments on subsidies from the ministries. However this is not something ACM can do something about in the method for setting maximum tariffs. If ACM would add the subsidized part of assets to the regulatory asset base (RAB), tariffs would cover costs that have been covered for already with subsidies, leaving customers to pay twice for the same asset: once as tax payer and once as customer. This would even be against what the law says⁴ about this, i.e. that the possibility to grant subsidies was introduced in the law to cover costs. Also, the maximum tariffs are set by ACM based on the cost that parties make and creating an equity buffer cannot be seen as cost. Economically this would not make sense and ACM also believes it would not be reasonable.
- 49. As discussed more than once with STUCO and SEC, issues of acquiring equity and access to capital markets have to be discussed and settled between them and their shareholders.
- 50. ACM does not agree with parties that it is the current and proposed method that prevents companies from acquiring equity. ACM also remarks that the regulation is not informed by the political climate. In

⁴ Kamerstukken II 2014/15, 34089, nr. 3, p.15-16 (Memorie van Toelichting).

fact, the independence of ACM and its task in setting the regulatory framework of politics is widely, including by parties, seen as vital to the role and position of ACM and its regulations.

Conclusion on the opinion

51. This opinion does not lead to a change of the method decision.

Opinion 10: “Profit sharing”

Respondents	Does it lead to a change in the method?
SEC/STUCO/WEB	No

Summary opinion

52. Parties (SEC, STUCO, and WEB) mention that they have stated multiple times that the chosen 50%-50% profit sharing model presents a high risk to them. They believe it is not compatible with a system that includes a WACC which does not account for such risks, nor that it is suitable for rapidly growing companies. Parties request ACM that the percentages be adjusted to reflect a lower risk, for example, 75%-25% (with 25% of the risk retained).

ACM's response to the opinion

53. This opinion of parties was also given as a response to ACM's draft method decision for 2019-2025. As ACM has mentioned before, ACM believes that the financial risks for companies are limited. Profit sharing is fundamentally based on a careful assessment of anticipated costs based on the recently made costs by the utility companies, combined with input from the companies about for instance major occurrences.

54. Furthermore, the profit sharing only applies to a limited part of the costs that the utility companies make. The fuel prices for instance are fully reimbursed, and from this period onwards the WACC is also readjusted annually. Hence, compared to the method for 2019-2025, this new method reduces the risks for parties even further.

55. ACM already limits the financial risk for the utility companies to a large extent in several ways, e.g.:
- ACM uses the utility company's own out-of-pocket costs (with the exception of the reasonable return). By comparison, in the European Netherlands costs are estimated on the basis of the costs of other utility companies.
 - ACM uses the most recent audited cost data available each year.
 - ACM applies an ex-post correction to take account of actual developments in volume, fuel costs, and several WACC parameters.
 - ACM takes major events into account separately. This helps ensure an accurate assessment of costs.
 - ACM can adjust tariffs for reasons of force majeure.

56. Moreover, the choice for 50%-50% is based on the reasoning that parties and their customers share the remaining risks equally. ACM believes this is reasonable in the absence of reasons to distribute risks differently. Parties have never, and also not this time, convincingly given such reasons.

Conclusion on the opinion

57. This opinion does not lead to a change of the method decision.

Opinion 11: “The sustainability incentive requires commitment for more than a regulatory period”

Respondent	Does it lead to a change in the method?
CGB	No

Summary opinion

- 58. CGB mentions that the inclusion of the sustainability incentive in the method signals a shared commitment to the energy transition objectives of the island and the broader Dutch policy goals.
- 59. CGB adds that from the perspective of a long-term investor and operator of critical renewable infrastructure, the success of an incentive hinges on creating an environment that ensures bankability and fosters substantial new investments. For CGB a central consideration is the need for long-term certainty regarding revenue streams. CGB continues stating that renewable energy assets, particularly wind and solar plants, entail high upfront capital expenditures and have operational lifespans of 20 years or more. To attract competitive project financing, which is vital for minimizing the overall cost of energy to consumers, it is essential that these assets benefit from stable and predictable cash flows over their economic life. While the draft methodology introduces an incentive mechanism, its current formulation, limited to the tariff period, fails to provide the durability necessary to support non-recourse financing structures.
- 60. Having said that, CGB urges ACM to explicitly confirm that renewable incentives will continue throughout the operational lifetime of assets commissioned within the 2026–2031 window, or alternatively to define clear criteria and processes governing their future review. This clarity would significantly reduce perceived regulatory risk and enable access to lower-cost capital.

ACM's response to the opinion

- 61. Firstly, ACM welcomes CGB's encouraging remark to introduce a sustainability incentive.
- 62. Given the fact that the law stipulates that regulatory periods are limited in time (i.e. 3 to 10 years), ACM legally cannot guarantee that isolated features of the method will be maintained beyond a regulatory period.
- 63. Even without legal limitations, ACM would be reluctant to make binding statements beyond a regulatory period about an isolated feature of the method. This is because ACM considers a method decision as a consistent package of principles and measures to reach the overall objective and effectiveness of such decision.
- 64. CGB requests ACM to confirm that the incentive will continue beyond this period of six years, i.e. beyond 2031. ACM could legally extend the period to ten years, which is not what CGB asks for, but considers that even ten years would not cover the period requested by CGB.
- 65. ACM understands the desire for a stable environment for CGB to work in, and has shown this with the method decisions so far and for 2026-2031. However, ACM cannot and will not bind itself to years beyond the upcoming period and stresses that CGB seems to ask for a level of certainty that goes beyond what is usual in a business environment, thereby also ignoring that the risks that CGB addresses are reflected by the reasonable return on investments that the regulation offers.

Conclusion on the opinion

- 66. This opinion does not lead to a change of the method decision.

Opinion 12: "The annual 3%-point cap on the sustainable overperformance is too low"

Respondent	Does it lead to a change in the method?
CGB	Yes

Summary opinion

- 67. CGB states that the proposed cap of 3%-point on overperformance with the sustainability incentive appears to constrain a producers' ability to realize the full value of efficiency improvements and resource overperformance, especially when future tariff methodologies cannot be assured beyond a five-year horizon (see the previous opinion, also CGB probably means to say six-year). CGB believes

that, by raising the overperformance cap to at least 10%, the tariff mechanism would allow the regulated companies to pursue larger, more impactful renewable investments, potentially enabling an increase in the island’s renewable penetration by up to 50–60% in addition to the current levels. Such a measure aligns with international best practices, where regulatory frameworks seek to unlock private sector innovation and ambition by providing sufficient headroom for superior performance.

ACM’s response to the opinion

- 68. First of all, ACM remarks that the cap was added to the sustainability incentive mechanism to protect consumers. It is a safeguard to ensure that tariffs cannot increase too much solely due to any effect that the incentive may have on tariffs. The objective of customer protection is deemed relevant, important and reasonable by ACM as the incentive does not contain any down side (i.e. malus) to CGB. Put differently, any risk that the incentive may have cannot be put on the customer without a proper “safety valve.”

- 69. ACM has considered the incentive mechanism without the 3%-cap like CGB proposes. After all, a high overperformance by CGB in a certain year likely means that relatively less fuel has been used to produce electricity in that year. That in turn could decrease costs and thus offset an upward effect on tariffs due to the bonus that CGB receives in such case. However, this expected effect and its impact cannot be guaranteed. As the sustainability incentive is a new element in the regulation with direct impact on tariffs, ACM wishes to be careful. The ACM therefore believes it is prudent to introduce a cap to guarantee the customers can never be unduly negatively impacted by this change.

- 70. Nevertheless, ACM understands CGB’s argument regarding how a 3% cap might appear to constrain a producers’ ability to realize the full value of efficiency and will raise the cap to 5%. In light of the above, ACM believes that this elevated cap would not significantly increase the risk on consumers compared with the 3% cap. The risks, however, are more serious with a 10% cap. The chance of the bonus outweighing the oil-effect is higher, and this would erode the “safety valve”. Hence, the ACM will increase the cap, but not to the proposed 10%.

Conclusion on the opinion

- 71. In the final method decision, ACM raises the annual cap on sustainable overperformance to 5%.

Opinion 13: “Missing baseline for renewable investment planning”

Respondent	Does it lead to a change in the method?
CGB	No

Summary opinion

- 72. CGB states that regarding the sustainability incentive demand predictability is crucial. To accurately model future renewable shares and investment feasibility, CGB requires a well-defined baseline for island electricity demand. CGB thinks that the absence of such a baseline introduces considerable uncertainty in energy yield assessments and revenue projections. Establishing and publishing an initial demand reference point would allow developers to carry out robust probabilistic analyses, supporting transparent and consistent evaluation of potential renewable contributions and expected incentive levels. CGB continues that this approach not only improves investment planning but also reinforces the integrity of the incentive scheme itself.

ACM’s response to the opinion

- 73. The sustainability incentive is not meant to predict or anticipate electricity demand. Its sole purpose is to incentivize a producer to increase its share of renewable energy relative to its total production of electricity. The incentive does not predict or set island electricity demand.

- 74. Dealing with uncertainty about demand projections is part of the task of a producer. Tariff regulation is in essence no more than translating costs into tariffs and incentivize that such costs are not higher than

necessary. ACM believes that profit sharing helps with the latter. Likewise, the sustainability incentive contributes by stimulating producers to decrease the role of oil in total production.

75. Insofar as CGB has a need for island demand projections to determine how to conduct its operations or invest in production means, it is part of their task to acquire these, possibly in conjunction with WEB and/or other parties. The sustainability incentive is only meant to incentivize producers to favor renewable production as much as possible when making choices regarding operations and investments.

Conclusion on the opinion

76. This opinion does not lead to a change of the method decision.

Opinion 14: “Undesired effects of the sustainability incentive”

Respondents	Does it lead to a change in the method?
SEC/STUCO/WEB	No

Summary opinion

77. Parties (SEC, STUCO, and WEB) express their impression that the sustainability incentive primarily benefits producers that still have significant potential to increase their share of sustainable energy, and less so for those that already have a high share.
78. If this is correct, parties request that a progressive percentage be introduced, depending on the current share of sustainable energy (i.e. the higher the share, the greater the relative incentive.)
79. Parties also request that the methodology be examined for unintended effects, e.g. that it does not encourage splitting investments into smaller projects (which may be more advantageous for the producer but disadvantageous for consumers on the islands) instead of making one large, efficient investment.

ACM’s response to the opinion

80. ACM agrees that the incentive is probably stronger for companies that currently have low shares of sustainability. However, ACM does not see this as a problem but as an intended effect. I.e., to increase the overall renewable share on the islands, the incentive helps most if producers that still have a long way to go are encouraged to take steps forward. Hence, ACM does not see any merit in a progressive incentive, as parties suggest.
81. ACM emphasizes that there is always a positive incentive for increasing sustainability as long as a company is not already 100% sustainably productive. Even though the strength of this incentive may differ between companies, it is always a positive incentive.
82. As to possible unintended effects, ACM will monitor the sustainability incentive for unintended effects like she always does with new aspects of a regulatory method. Also, the sustainability incentive is a new element in the tariff regulation and ACM cannot oversee the exact nature and materiality of all possible intended and unintended effects beforehand. Therefore ACM cautiously has limited its material effect beforehand by introducing an annual cap, ref. Opinion 12, to protect customers on the one hand, and on the other hand protect producers by abstaining from a malus in the incentive scheme.

Conclusion on the opinion

83. This opinion does not lead to a change of the method decision.

Reply to opinions on the draft WACC annex

Our reference : ACM/UIT/652067

Case number : ACM/24/187957

Reply to opinions on the draft WACC annex for energy and water companies in the Caribbean Netherlands for the years 2026-2028

October 2025

4. Introduction and reader's guide (WACC)

84. In order to ensure that the decision-making process regarding the establishment of method decisions takes place as carefully as possible, ACM has offered stakeholders the opportunity to submit their opinions on the WACC annex. In this annex, ACM discusses the questions and suggestions submitted by the stakeholders on the draft WACC annex for energy and water companies in the Caribbean Netherlands for the years 2026-2028.⁵ This annex is part of the WACC annex Caribbean Netherlands 2026-2028 to the method decision Caribbean Netherlands 2026-2031.
85. ACM received opinions on the draft WACC annex from the following parties in a joint reaction (submitted in writing by e-mail on July 4th, 2025):
- ContourGlobal Bonaire B.V. (hereafter: 'CGB')
 - Water en Energiebedrijf Bonaire N.V. (hereafter: 'WEB')
 - Saba Electric Company N.V. (hereafter: 'SEC')
 - Statia Utility Company N.V. (hereafter: 'STUCO')
86. For each opinion, a table indicates which respondents have submitted an opinion, and whether the opinion has led to a change of the draft WACC annex. Each opinion is provided with a response and conclusion from ACM.

⁵ Stakeholders as referred to in Article 2.1, first paragraph of the BES Electricity and Drinking Water Regulation.

5. Opinions on the general approach to the WACC

Opinion 15: “Not clear if and how input from companies has been addressed”

Respondents	Does it lead to a change in the method?
SEC/STUCO/WEB/CGB	No

Summary opinion

87. Parties (SEC, STUCO, WEB, and CGB) have taken the opportunity (on respectively February 18 and 19, 2025) to highlight points for the consultant’s (Brattle) investigation. They are of the opinion that the final WACC decision should include an explanation of what is done with these points and how these informed the investigation, with a reasoned explanation of what was or was not done with them.

ACM’s response to the opinion

88. ACM and the consultant have taken the points addressed by the stakeholders into account for ACM’s draft decisions and the Brattle report. Several of the points made, have extensively been discussed in replies on opinions of previous method decisions^{6 7} and if this has led to a change in the method. Specific points regarding the Special Purpose Vehicles (SPVs) and the calculation of the cost of debt have been taken into account while drafting the decision and the report by basing the cost of debt on an index and a spread instead of basing it entirely on a set of bonds.

Conclusion on the opinion

89. This opinion has not led to any changes to the WACC annex compared with the draft WACC annex.

⁶ Reply on opinions WACC 2020-2022, Opinion 1, 2, 5 and 16.

⁷ Reply on opinions WACC 2023-2025, Opinion 2, 3, 4 and 5.

6. Opinions on the peer group

Opinion 16: “The peer group for drinking water changed, resulting in a too low asset beta”

Respondents	Does it lead to a change in the method?
SEC/STUCO/WEB/CGB	No

Summary opinion

90. Parties (SEC, STUCO, WEB, and CGB) are of the opinion that the change in the peer group for drinking water has disrupted the balance of comparison companies between Europe, America, and Latin America, resulting in an asset beta that is set too low to serve as a proxy for the drinking water companies in the Caribbean Netherlands.
91. Parties explicitly mention that five companies from Europe and America with a relatively low asset beta have been added, and one company with a relatively high asset beta has been removed. They believe the proposed change of the peer group for the Caribbean Netherlands should be put aside for the final WACC decision, since it disrupts the balance between Europe, America and Latin America.
92. Parties also observe a significant drop in the asset beta within the total comparison group. Since the drop in the total asset beta drinking water is the most significant, they would at least expect a double check (sanity check) on the results.
93. Parties recommend to conduct an analysis of the effect and/or verify whether this results in a representative WACC for drinking water companies in the Caribbean Netherlands. They specifically ask for 1) performing a sanity check and/or 2) if there is no time for this, aligning the asset beta for drinking water with the asset beta for electricity.

ACM's response to the opinion

94. As Brattle mentions⁸ she needs to find publicly traded firms with similar systematic risk to the Dutch Caribbean companies to estimate the beta parameter. These publicly traded companies base the majority of their revenues on the same activities: electricity production, electricity distribution, and water production and distribution. These companies have been selected by analyzing the company descriptions and revenue splits by activity reported in their annual accounts.⁹
95. For companies to be potential peers, the companies have to be sufficiently liquid to ensure a reliable estimate. The potential peers need to be publicly listed and traded companies to have data to base the beta estimate on. There is a limited amount of companies that fit these criteria, especially for Latin America. This explains why the number of potential peers from Latin America is lower compared to the other regions (i.e. Europe and US).
96. ACM has previously argued that an identical number of peers from each region is not necessary, because the beta represents the risk of the comparators of the firms relative to the whole market of the respective region, as represented by the ERP. The required return for each region is ultimately weighted equally, because all three regions are weighted equally in this ERP and the beta is applied to this ERP. The proper locus for regional risk effects is the ERP, not the beta.¹⁰
97. There have been a few companies that have been added to the sample, that were excluded from the final sample of the drinking water report because in that report a threshold of Euro 100 mln in annual

⁸ The Brattle Group, “Beta, gearing, ERP and cost of debt for Electricity and Water Companies in the Caribbean Netherlands”, 30 April 2025, marginal 9 and 32.

⁹ The Brattle Group, “Beta, gearing, ERP and cost of debt for Electricity and Water Companies in the Caribbean Netherlands”, 30 April 2025, marginal 9-11.

¹⁰ ACM, “Opinions on the draft WACC attachment for energy and water companies in the Caribbean Netherlands for the years 2020-2022”, marginal 41-42.

revenue is applied. As Brattle mentions in her report for drinking water companies in the Netherlands¹¹, she applied this threshold because she has done so in previous reports for drinking water companies in the Netherlands. This exclusion of companies is not related to the court ruling that Brattle refers to in footnote 9 of her report.¹²

98. The BES water and electricity companies have mentioned in their opinion regarding the 2020-2022 method that the peer group was biased towards European peers. ACM sees no reason to change the earlier beta or to conclude that the initial peer group is not representative.
99. ACM has performed a sanity check on the methodology used to form a peer group for water production and distribution companies. ACM has also audited the files used by Brattle to calculate the WACC parameters. ACM sees no need for any further sanity checks.
100. In the opinion of ACM the beta is estimated based on firms with similar activities that thus face a similar systematic risk. For the publicly traded companies with similar activities is analyzed whether they derive the majority of their revenues from the same activities and whether the company descriptions are alike. This set of peers approaches the risks that the drinking water companies face the best. Electricity production and distribution companies have different activities, which pose different risks. Therefore it is not possible to align the asset beta for drinking water with the asset beta for electricity.

Conclusion on the opinion

101. This opinion has not led to any changes to the WACC annex compared with the draft WACC annex.

¹¹ The Brattle Group, "The WACC for Drinking Water Companies in the Netherlands", 1 October 2024, marginal 40 and 1.

¹² ECLI:NL:CBB:2018:348, ECLI:NL:OGHACMB:2020:197, ECLI:NL:OGHACMB:2020:198 & ECLI:NL:OGHACMB:2020:199.

7. Opinions on the Cost of Equity/Equity Risk Premium (ERP)

Opinion 17: “The ERP weighting methodology should be based on inverse GDP”

Respondents	Does it lead to a change in the method?
SEC/STUCO/WEB/CGB	No

Summary opinion

102. Parties (SEC, STUCO, WEB, and CGB) are concerned that the methodology used to calculate the ERP does not reflect the elevated risk of small economies such as the Caribbean Netherlands. Parties believe that ACM should revise the weighting methodology toward smaller and more volatile economies to better mirror the BES investment context. They propose to revise the ERP weighting methodology by incorporating the inverse GDP (or market capitalization as a proxy) as a core factor.

ACM’s response to the opinion

103. ACM is of the opinion that when the presumed “elevated investment risk” of companies operating in the Caribbean region is considered, this is a non-systematic and diversifiable risk that is not related to the CAPM (Capital Asset Pricing Model) ERP.

104. ACM sees no conceptual reason why the ERP should be correlated with the size of the economy. If larger economies in the data used by Brattle have a lower ERP, this could be driven by reasons unrelated to country size. For example, it could be that large economies in South America (Mexico, Brazil), have relatively stable economies compared to the average of the region. In the absence of clear reasoning why the ERP should be related to economy size, ACM sees no reason to adjust the ERP for the small size of the Caribbean Netherlands.

105. As Brattle writes in her report, it agrees with ACM’s approach to determine the ERP for the Dutch Caribbean companies by reference to the capital markets in Latin America, the US and Europe. By using these reference markets, ACM estimates the ERP for the Caribbean Netherlands based on characteristics that are relevant for the regulated companies. ACM is of the opinion that, through the application of this method, the ERP already reflects the risks involved with investing in a company in the Caribbean Netherlands.

106. ACM has previously¹³ looked into whether the WACC should include a regional risk premium. This has not led to any changes in the methodology either. Furthermore, ACM mentions that the region the companies are active in is also taken into account in other aspects of the method of regulation. Therefore, ACM sees no reason to adjust its method.

107. ACM is therefore of the opinion that the suggested weighting methodology is at odds with the theory of portfolio diversification and therefore not in line with the CAPM. This means that the suggested weighting methodology is not in line with the used approach by ACM.

Conclusion on the opinion

108. This opinion has not led to any changes to the WACC annex compared with the draft WACC annex.

¹³ Reply on opinions WACC 2020-2022, Opinion 5.

Opinion 18: “The historical data period applied across regions should be consistent”

Respondents	Does it lead to a change in the method?
SEC/STUCO/WEB/CGB	No

Summary opinion

109. Parties (SEC, STUCO, WEB, and CGB) recommend to ensure consistency in the historical data period applied across regions. They believe unnecessary volatility is introduced because the Latin America ERP relies on data from a single year (2024), while for Europe and US there are long-term data sets (1900-2024). In their opinion, a harmonized use of long-term data for Latin America would reduce short-term distortion.

ACM’s response to the opinion

110. It is not possible to apply the same historical data period for all regions, since there is no long-term data available for Latin America.

111. As Brattle writes in its report, the ERP for each region is estimated in line with the general ACM method, which considers long-term historical data on the excess return of shares over long-term bonds, using historical data published by Dimson, Marsh and Staunton (DMS). Since DMS does not report any data about the ERP in Latin America, ACM considered the ERP estimate reported by Damodaran.

Conclusion on the opinion

112. This opinion has not led to any changes to the WACC annex compared with the draft WACC annex.

Opinion 19: “An annual update mechanism is needed to ensure that the ERP remains responsive to evolving market conditions”

Respondents	Does it lead to a change in the method?
SEC/STUCO/WEB/CGB	No

Summary opinion

113. Parties (SEC, STUCO, WEB, and CGB) mention that the ERP relies on dynamic market indicators, such as the 20-year U.S. government bond yield. They propose instituting an annual update mechanism to ensure that the ERP remains responsive to evolving capital market conditions and does not become outdated over the multi-year regulatory period.

ACM’s response to the opinion

114. ACM in principle bases the ERP on a long term mean, as is common practice in the CAPM framework. Therefore, ERP is relatively stable. ACM is of the opinion that updating the ERP annually is inconsistent with the notion of a stable ERP. ACM uses a long term mean for the ERP for the US and Europe based on Dimson, Marsh and Staunton (DMS). Only for Latin America does the ACM use a constructed ERP based on Damodaran, however this is because DMS does not have sufficient data for Latin America, not because ACM deems the ERP to be dynamic. Therefore, ACM sees no reason to include an annual update to the ERP.

Conclusion on the opinion

115. This opinion has not led to any changes to the WACC annex compared with the draft WACC annex.

8. Opinions on the Cost of Debt

Opinion 20: “Significant risk that the 0,8% spread, and thus the cost of debt, is underestimated”

Respondents	Does it lead to a change in the method?
SEC/STUCO/WEB/CGB	No

Summary opinion

116. Parties (SEC, STUCO, WEB, and CGB) believe there is a significant risk that the spread of 0,8% is underestimated, and thus the cost of debt is underestimated. In their view many of the bonds included are issued by so-called Special Purpose Vehicles (SPVs) which are predominantly located in the Caribbean for tax reasons. In addition parties remark that:

- The bond issuers are frequently part of large corporations, which does not adequately reflect the small scale of parties;
- ACM's methodology does not take into account that parties are too small to issue bonds themselves and are therefore reliant on conventional bank financing; and
- The bond issuers are not utility companies.

ACM's response to the opinion

117. ACM calculates a normative WACC for an efficiently financed utility company. When calculating the WACC, ACM does not look at the actual financing costs of the regulated company. On 21 October 2020, the Joint Court of Justice of Aruba, Curaçao, Sint Maarten and of Bonaire, Sint Eustatius and Saba (hereafter: Joint Court) considered that the WACC method used by ACM to determine the reasonable return, is based on the weighted average of the costs of equity and debt and therefore on the capital costs. According to the Joint Court, this means that for the capital costs a certain of abstraction from the actual costs is required, whereby the capital costs of an efficiently financed company (may) form the normative framework. However, ACM may not abstract from known actual costs if they are efficient in a specific case.

118. ACM determines a reasonable return and to this end ACM applies an approach that is in line with the Joint Court's considerations. ACM is allowed to model efficient financing, which it does by using market data based on comparable companies for, for example, beta and gearing. In addition ACM takes into account historical loan portfolios by means of the staircase model and an appropriate credit rating.

119. ACM stresses that the WACC is not a *guaranteed* return. The realized return of a company depends on the actions and decisions by the company itself. If a company finances itself against a higher duration (e.g. 15 years instead of 10 years) for which the rate is higher than the cost of debt as set by ACM, this will indeed lower the return. This strategy, on the other hand, can be beneficial for a company if interest rates rise. This is similar to what would be the case in competitive markets. I.e. if a company in such market would finance itself less efficient than its competitors, it would also not be able to charge higher tariffs to its clients to compensate for that. In that case, the higher costs of debt would also decrease the profits of the company.

120. As a measure of comparable debt to determine the cost of debt, ACM uses the sum of the yield of a US 10-year utility index and a spread over the utility index reflecting the additional cost of issuing debt for a company operating in US dollars in the Caribbean region. ACM considers a BBB-rating to be representative. Specific circumstances for the Caribbean Netherlands such as micro- and closed economy are caught by the rating of a bond, as a bond rating indicates its credit quality. As such, these circumstances are already taken into account in the determination of the cost of debt.

121. ACM holds the opinion that the criteria used by Brattle result in a sample of bonds that is representative for measuring the spread of the regulated companies in the Caribbean Netherlands. To

address the issue of SPVs, Brattle has filtered bonds from companies that are listed in the Bloomberg and CapIQ databases as financial vehicles or as operating elsewhere than in the Caribbean. This filters out 56 bonds from possible SPVs from the total of 76 bonds.¹⁴ ACM considers this sufficient and does not consider it reasonable to further narrow down the list of bonds based on qualitative research into the bond issuers, as this requires subjective interpretations about at which point a company can truly be considered as Caribbean. Furthermore, as Brattle states in her report¹⁵, the fact that the spread prior to applying the filter is very close to the spread after applying the filter is an indication that yields for SPVs do not differ significantly from yields for companies operating in the Caribbean.

122. ACM concludes that the sample constructed by Brattle to calculate the spread is representative for the regulated companies in the Caribbean Netherlands, as the bonds in this sample represent the correct region, currency, credit rating and maturity.

123. For the reasons stated above, ACM considers the proposed method by Brattle to calculate the cost of debt to be representative for the regulated companies in the Caribbean Netherlands. Previous court rulings (as mentioned in marginal 117-119) point out that the ACM is allowed to calculate the WACC as a normative parameter, where it is allowed to model efficient financing and therefore does not follow the circumstances of the regulated companies in all circumstances.

Conclusion on the opinion

124. This opinion has not led to any changes to the WACC annex compared with the draft WACC annex.

Opinion 21: “Alternative method to calculate the spread”

Respondents	Does it lead to a change in the method?
SEC/STUCO/WEB/CGB	No

Summary opinion

125. Parties propose an alternative method to calculate the spread. For the years 2017-2024, they propose to calculate a constructed cost of debt as the sum of a risk-free rate, a sector risk premium and a default spread for the Caribbean Netherlands. They propose to use the average spread between this constructed cost of debt and the IGUUUB10 BVLI index, instead of the average spread between the sample bonds and the IGUUUB10 BVLI index.

ACM’s response to the opinion

126. Parties base the sector risk premiums for utilities on the lookup tables from Damodaran to calculate the estimated cost of debt. Damodaran urges to use his method to calculate the cost of debt based on the standard deviations (and the lookup table) cautiously¹⁶. Damodaran uses it primarily as a sanity check for the calculated cost of capital. Furthermore, parties propose to use the sector premium for emerging markets. ACM looked into the companies the standard deviation is based on and this is mainly based on companies from Asia (China, Southeast Asia and India) and only for a small part on companies from Latin America and the Caribbean. It also indirectly includes a country risk premium from the companies and therefore the related countries that are considered for the sector premium. Since ACM already uses a utility index to determine the cost of debt and there are clear limitations regarding this premium, ACM sees no reason to adjust its method.

127. Parties suggest a different method to take into account the region parties are active in, where it calculates a Caribbean country risk premium based on the simple average of the adjusted default

¹⁴ The Brattle Group, “Beta, gearing, ERP and cost of debt for Electricity and Water Companies in the Caribbean Netherlands”, 30 April 2025, marginal 74-75.

¹⁵ The Brattle Group, “Beta, gearing, ERP and cost of debt for Electricity and Water Companies in the Caribbean Netherlands”, 30 April 2025, marginal 79-82.

¹⁶ <https://pages.stern.nyu.edu/~adamodar/pc/datasets/waccemerg.xls>

spreads of Aruba, Curacao, Montserrat, St. Maarten and Trinidad and Tobago based on Damodaran. ACM asked Brattle to comment on this Caribbean country risk premium. Brattle points out that Aruba, Curaçao, and Montserrat have a credit rating of around BBB– (S&P) and St. Maarten and Trinidad & Tobago of below investment grade. Since ACM considers a BBB rating to be representative, this premium does not seem appropriate and could well be overestimating it. Brattle also argues that, since the Dutch Caribbeans are part of the Netherlands, it could be more appropriate to use the Dutch Country Risk Premium which is 0.00%.

128. Furthermore, ACM earlier noted the region the companies are active in should be taken into account.¹⁷ However, ACM concluded that by including the used reference markets the WACC already reflects the risks involved with investing in a company in the Caribbean Netherlands. ACM also concluded that the region the companies are active in is also taken into account in other aspects of the method of regulation. ACM sees no reason why this is would not be the case for the WACC for 2026-2028.

129. Based on the reasons stated above, the ACM does not consider the spread proposed by the parties to be a better methodology to estimate the cost of debt than the method proposed by Brattle.

Conclusion on the opinion

130. This opinion has not led to any changes to the WACC annex compared with the draft WACC annex.

¹⁷ Reply on opinions WACC 2020-2022, Opinion 5.