



Autorità per l'energia elettrica e il gas

ANNUAL REPORT
TO THE AGENCY FOR THE COOPERATION OF ENERGY REGULATORS
AND TO THE EUROPEAN COMMISSION
ON REGULATORY ACTIVITIES AND THE FULFILLMENT OF DUTIES
OF THE ITALIAN REGULATORY AUTHORITY FOR ELECTRICITY AND GAS

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1 FORWARD

With this document, the Regulatory Authority for Electricity and Gas provides the Agency for the Cooperation of Energy Regulators (ACER) and the European Commission with a Report on its activities and duties pursuant to articles 34.1.e) and 41.1.e) of Directives 2009/72/EC and 2009/73/EC (respectively).

The Report's structure, which was defined by the CEER, has been shared with ACER and the European Commission's General Directorate for Energy.

The report analyzes the main elements in the structural element of two markets – electricity and gas – with respect to regulatory activities and the state of competition. The report also includes a description of recent regulatory developments in the energy market, particularly with respect to the adoption of the Third Energy Package in Italian law, the activities conducted in relation to consumer protection and security of supply from the perspective of the responsibilities of the national regulator.

SUMMARY/MAIN DEVELOPMENTS IN THE ELECTRICITY AND GAS MARKETS IN 2011

Developments in the electricity market

Main new legislative measures

The Third Energy Package has been implemented in Italy by the Legislative Decree no. 93 of 01 June 2011.

Among the innovative measures introduced by the legislative decree the most relevant ones concern: (i) the definition of a national energy policy, (ii) public service obligations and consumer protection and (iii) duties and powers of the Authority. Moreover, it is worthy to notice that the model of ownership unbundling of electricity transmission systems and transmission system operators (“TSOs”) introduced by Directive 72/2009/EC was already in force in Italy pursuant to Legislative Decree no. 79 of 16 March 1999 (the so-called “*Bersani* decree”). The Italian legislator has therefore confirmed the existing model, entrusting Terna with the operation of the transmission system and has forbidden the latter to carry out directly or indirectly any activity of production or supply of energy as well as to operate, even temporarily, electricity generating infrastructures or power plants.

With regard to the first point, Legislative Decree no. 93/11 confers to the Ministry of Economic Development (“MED”) the competence to provide guidance and set rules on the national energy policy with a view to guarantee security of supply. Moreover, the decree establishes that also system operators should be involved in the elaboration and implementation of the national energy strategy given that system operators are required to submit a ten-year network development plan. The main novelty introduced by the decree in this respect is that decisions relating to the strengthening and modernization of transmission systems are not taken exclusively by TSOs but also depend on the global needs of the national and European energy systems.

With regard to public service obligations and consumer protection measures, Legislative Decree no. 93/11 provides that households and small undertakings connected to the low voltage distribution network which have less than 50 employees and an annual turnover below EUR 10 million and which do not choose a supplier in the free market shall be supplied under the standard offer regime.

Finally, the legislative decree better defines the duties and powers of the Authority, consisting, *inter alia*, of ensuring that (i) service providers implement the rules on consumer protections, (ii) TSOs, distribution system operators, electricity and gas undertakings respect their obligations pursuant to Directives 2009/72/EC and other relevant EU law provisions and (iii) national TSOs are certified. The legislative decree also confirms that the Authority is granted the power to impose penalties for infringements of binding decisions of ACER and the Authority itself.

Main new regulatory measures

With reference to the electricity sector, the Authority adopted several measures in 2011 thereof the main ones are summarized hereinafter.

With regard to the subject of unbundling, during 2011 the Authority kept on gathering the information and the documents compulsorily submitted by those undertakings which operate networks in the electricity sector as provided for by Resolution no. 11/07 which established the

integrated text for unbundling (ITU). Moreover, the Authority has approved some modifications to the ITU according to which, in case a party fails to comply with its obligations of functional unbundling and unbundling of the accounts, such party is suspended from the financial contributions to which it is entitled until it complies with those obligations.

With the Resolution ARG/com 153/11, the Authority has introduced the rules on the certification procedure of transmission system operators that reflect the provisions of Legislative Decree no. 93/11 which has transposed Directives 72/2009/EC and 2099/73/EC in the national legal order.

With the Resolution ARG/elt 160/11, the Authority has started the review of the current discipline on dispatching services, with the view to adapt such discipline to the specific requirements of the renewable sources of energy when used for dispatching services, to efficiently allocate the costs relating to the dispatching services to the subjects which have generated them and to favour the penetration of distributed generation of electricity.

With the Resolution ARG/elt 199/11, the Authority has approved specific rules on tariffs regulation for electricity transmission, distribution and metering services for the fourth regulatory period 2012-2015. With specific reference to the tariffs for transmission services, the Authority has established that the greatest financial incentives which are reflected within such tariffs are reserved only to strategic projects for the national energy system. The provision of those incentives is dependent on the timing of the investments and on the respect of the deadline set for the completion of the projects with the aim to solicit transmission system operators to realise those projects swiftly.

As regards smart grids, the integrated text of transport (ITT) adopted by the Authority has introduced an incentives regime with a view to favour the development of electricity distribution systems in order to promote an increasing penetration of renewable sources in the coming years. In particular, according to the current discipline, distribution system operators are entitled to benefit of a higher remuneration rate of the invested capital amounting to 2% for a period of 12 years. Those incentives are aimed to promote the introduction of innovative technologies (such as smart grids) which are able to integrate the behaviour and the actions of all users/consumers connected to the grid (generators, final customers and mixed points).

In the course of 2011 Resolutions ARG/elt 197/11 and ARG/elt 198/11 relating to respectively the quality of the transmission services and the quality of the distribution and metering services have been adopted. In particular, Resolution ARG/elt 198/11 has introduced new initiatives concerning the quality of network's voltage with a specific reference to the so-called "voltage sags" (drop of grid's energy voltage which do not entail the complete lack of voltage typical of the interruptions) and other problems related to the voltage's level which can negatively affect the systems used by those customers who need maximum stability of the voltage level.

Another novelty introduced in the course of 2011 regards the review of the regulation on the quality of commercial services. In this respect, it is worthy to mention, in particular, the following measures: (i) introduction of two new specific standards, that are, the maximum time employed to replace the broken down metering unit and the maximum time to restore the correct voltage value of the electricity to be supplied, (ii) harmonisation of dispute settlement mechanisms in respect of complaints submitted by final customers against retailers, (iii) extension to electricity generators of some standards concerning commercial quality, (iv) the possibility for medium-voltage end-customers to request a verification, under an analytical respect, of the short-circuit power in correspondence to their connection point to the medium voltage grid.

International Coordination

The Authority has actively taken part in the ACER's working group in charge to draft three Guidelines published by ACER in 2011 concerning the connection to the grid, capacity allocation and congestion management. In particular, the Guidelines relating to capacity allocation and congestion management: (i) review the current methods to calculate the transport capacity, (ii) foresee the possibility to identify a zone system for the future single market, (iii) set rules on the different market models with which the European systems will have to comply. Particularly, the following measures have been introduced, namely, the allocation of the capacity rights in the long term by means of implicit auctions, the introduction of the market coupling with reference to the allocation of capacity on a daily basis and the establishment of a single European platform for the allocation of intra-day capacity.

Following to the approval of the above Guidelines published on 29 July 2011, ACER has set up supra-regional projects coordinated by national Regulators. The Authority together with the German Regulator (BNetzA) are in charge to coordinate the preparatory activities for the roadmap of the day-ahead market coupling with the aim to couple the day-ahead markets by 2014.

On 01 January 2011 the coupling between the day-ahead market of the Italian power exchange and the equivalent market of the Slovenian power exchange has started to be operative for the implicit allocation of the daily transport rights along the interconnection between Italy and Slovenia. The market coupling has rendered the allocation of cross-border capacity more efficient under an economical perspective. The agreement between Italy and Slovenia expired on 31 December 2011 and extended up to 30 June 2012, foresees the possibility to enter into a new agreement towards the end of 2012 intended to define a market coupling mechanism for 2013 which in turn will be able to create the foundations for the potential extension of this project to other countries.

Wholesale and retail markets

In 2011 electricity demand grew by 0.6% compared to the previous year. In particular, net demand amounted to 332.3 TWh, up by a little less than 2 TWh in comparison to the value of 2010.

In 2011, total gross electricity generation was equivalent to 300.3 TWh down by 0.6% compared to the registered level in 2010. The import/export balance for 2011, based on Terna's provisional data, amounted to 45,626 GWh, resulting from the difference between imports equivalent to 47,349 GWh (+3.0% in 2010) and exports amounting to 1,723 GWh (-5.7% in 2010).

With reference to net domestic electricity generation, Enel Group's market share keeps on shrinking from 27.5% in 2010 to 26% in 2011, following the trend of the previous years. Moreover, Edison's market share has decreased significantly (8.5% in 2011 as opposed to 10.8% in 2010) and to a less extent also the market shares of Eni, E.On and Edipower.

The maximum net installed generating capacity on 31 December 2011 was equal to 118.4 GW, whereas net available capacity (for at least 50% of the time) was 95 GW.

With reference to net installed capacity, operators with a market share higher than 5% are five: Enel (37.2%), Edipower (6.9%), Edison (6.4%), Eni (5.3 %) and E. On (5.2%). The share held by the main three operators was about 45.8%.

As regards net available capacity (for at least 50% of the time), operators with a market share above 5% are five: Enel (37.9%), Edison (7.9%), Edipower (7.6%), Eni (6.1%) and E.On (5.4%). On the basis of the above data, the share of capacity held by the main three operators is equal to 53.4%.

Electricity trading, finalised to plan generation and consumption units, is carried out through spot or forward contracts.

In 2011, electricity demand on the Day-Ahead Market where electricity is contracted to be delivered the following day, amounted to 311.5 TWh, down by 2.2% as compared to the value of 2010. The average purchase price in the Italian power exchange (PUN) had a value of 72.23 €/MWh, significantly higher compared to the previous year (+12.6%).

In the course of 2011, electricity trading volumes on the Intra-Day Market totalled 14.5 TWh during the first trading session and 5.4 TWh during the second. The average purchase prices were respectively 71.22 €/MWh and 70.17 €/MWh during each of the two sessions.

Official figures for 2011 are only available ex ante for the Ancillary Services Market, in which the TSO accepts energy demand bids and supply offers in order to relieve residual congestions and create reserve margins. Step-up purchases amounted to 4.7 TWh down by 32.1% compared to the value in 2010. Step-down bids amounted to 4.9 TWh in strong decrease compared to the previous year (-67.1%).

With reference to the forward electricity market in 2011, 8,228 contracts have been exchanged, corresponding to 31.7 TWh of energy exchanged as opposed to 6.3 TWh of energy exchanged in 2010. 28.0 TW of energy have been exchanged through base-load contracts while 3.7 TWh through peak-load contracts.

With reference to the average wholesale prices at national level, the differential between maximum and minimum price at zone level has shrunk in comparison to 2010. Such differential was equal to 24 €/MWh resulting from the difference between the average price registered in Sicily (93.11€/MWh) and the average price of the macro-zone South (69.04 €/MWh); in 2010, the spread calculated taking into account the two above macro-zones amounted to a little bit less than 31 €/MWh.

With regard to the retail market, according to the TSO's provisional statistics, total electricity consumption (excluding self-consumption) reached about 311.7 TWh in 2011, slightly up compared to the level registered in 2010 (+0.6%). Electricity sales to customers benefiting from standard offer conditions amounted to about 73.5 TWh for approximately 29 million of withdrawal points, down by 6% compared to the value of 2010. 67% of the total electricity volume was purchased by household customers (around 49 TWh), which by number represent 83% of the standard offer regime (around 24 million).

In 2011 the last-resort regime for business users covered around 107.000 withdrawal points, calculated with the *pro die* criterion, corresponding to a consumption of around 5.9 TWh of electricity. This figure has decreased by approximately 6.5% compared to the equivalent figure of 2010.

On the basis of the data provided by distributors in 2011, the overall switching rate was equal to 20.9% in terms of distributed volume, and involved 7% of the retail market's customers. About 5.8% of household customers and 11.7% of non-household customers have changed supplier. With reference to the withdrawn volumes of energy, the corresponding percentage rates amount to respectively 7.1% and 27.3%. Among the non-household customers the most dynamic segment in terms of withdrawal points concern medium-voltage customers.

In 2011 the number of retail companies active on the liberalised market was analogous to the number registered in 2010. At the same time, in 2011 the average unit volume of sales increased moderately (987 GWh against 947 GWh in 2010) although this figure is lower in comparison to the value registered in 2000 (1580 GWh).

In the retail market, 2 electricity operators held a market share higher than 5%: Enel (37.8%), and Edison (8.1%). The first ten operators (groups) generate around three quarter of the sales on this market.

On the basis of the provisional data gathered by the Authority, the average price on the overall liberalised electricity market amounted to 90.19 €/MWh. With respect to the overall sales within the standard offer regime, the average price was 97.05 €/MWh.

With reference to monitoring of retail markets, the Authority has approved the Integrated text for monitoring of retail sales of electricity and natural gas which requires to the undertakings active in the market for retail sales of electricity to communicate to the Authority every trimester the data underlying the average monthly prices of electricity in the retail market as well as other data concerning: sold volumes, supplied clients, commercial offers, negotiations, switching, arrears, commercial quality, complaints and some data on the balance sheet. This system is finalised, among other things to: (i) adopt temporary asymmetric measures, (ii) publish information relating to the level of competition of the market, (iii) make recommendations to the Competition Authority on the subjects under its competence, (iv) carry out activities with the aim to protect consumers and final users.

With respect to inquiries and complaints, over the period from 01 January 2011 to 31 December 2011, the number of communications to the “*Sportello per il consumatore*” (a consumer help-desk established to offer assistance on consumers’ energy inquiries and complaints) amounted to 37,895 thereof 17,882 concern the electricity sector (equal to 47.2% of the total). The most recurrent subjects of the communications received in 2011 referred to: billing (22%), market (18%), bonus (34%), contracts (12%) and connections (5%).

As regards the recommendations on retail sale prices, the Authority transmitted a recommendation (PAS/11 of 21 April 2011) to the Parliament and the Government in relation to the standard offer regime. Through this recommendation the Authority has indicated the method employed to define standard offer conditions by the Authority and explained that the way according to which the price is set does not distort the level of competition of this market.

Finally, it is worthy to notice that in the course of 2011 the Authority carried out an intense activity of supervision and control with the view to verify the modality of provision of services of general economic interest (quality of service, security, free access to the networks, markets, tariffs, tariffs integrations, incentives to generation, etc.) and to improve the services provided to clients and end-customers.

Developments in the gas market

Main new legislative measures

The Third Energy Package was implemented in Italy by Legislative Decree no. 93/11. Among the innovative measures introduced by this Decree with reference to the gas sector the most relevant ones concern: (i) the unbundling of transmission systems and transmission system operators, (ii) access to modulation storage and obligations relating to strategic storage and (iv) public service obligations and consumer protection.

As regards the unbundling between the activities relating to the operation of the transmission systems and those related to the production and supply of gas, the Legislative Decree no. 93/11 decided to apply the Independent Transmission Operator model to the main transmission system operator, that is, Snam Rete Gas, while it left the choice between the remaining models to the

other smaller network operators. Afterwards, Law no. 27 of 24 March 2012 reviewed the model chosen for Snam Rete Gas in favour of the ownership unbundling regime.

As regards the rules on access to storage, the decree no. 93/11 conferred priority access to modulation storage to those undertakings which supply gas to vulnerable customers (i.e., all household customers, including those who carry out public service activities and/or assistance services) and non-household customers with a consumption below 50,000 m³ per year. In addition, the obligation to keep strategic storage, so far imposed only to importers from third countries have been extended to all producers and importers. The decree establishes that the quota of strategic storage is determined annually on the basis, also in a non-linear fashion, of the volume imported and the infrastructure used to procure gas.

In the field of public service obligations and consumer protection, Decree no. 93/11 has introduced a definition of vulnerable customers and has entrusted the Authority with the task to temporarily determine reference prices for vulnerable customers, i.e., the prices that gas suppliers or distributors must include among their commercial offers.

Main new regulatory measures

In 2011, the Authority introduced the economic-merit balancing system for natural gas. Such system which was adopted after a long consultation process which started in 2008, represent one of the most important regulatory measures adopted in last years within the gas sector since it introduces structural changes in favor of efficiency and competitiveness. The first advantage consists of the fact that since the price of gas used for balancing purposes is determined on an organized market, also users who do not have gas in storage can balance their own gas portfolio purchasing resources in a transparent and efficient way. Another important novelty introduced by the new system consists of the fact that users have a timely knowledge on the amount of gas they have in storage which allows them to efficiently exploit such resource also in favor of the liquidity of the spot market. Snam Rete Gas, the major transmission system operator, provides both the physical and economic settlements in the balancing system. With the new market based mechanism the entity in charge for balancing services procures resources from the users which, for this purpose, offer their availability to increase or decrease injections and withdrawals at prices determined on the basis of the marginal prices of the offers submitted. The procurement of resources used for balancing services takes place in daily sessions on a platform organized and managed by the Energy Market Administrator (GME), where demand and offer are matched on the basis of their economic merit. In result of the above process, the transactions relating to the volumes of gas sold or purchased for balancing purposes are concluded between the individual users and the responsible for the balancing services that serves in the role of central counterparty.

The new balancing system consistent with the EC Regulation 715/2009 has brought some improvements in terms of a more efficient allocation of resources and costs, but remains at present a simplified model of balancing based on economic merit, since users can offer their availability to increase or decrease injections or withdrawals of gas only on the basis of the gas available in storage. In any case, regulatory changes are already underway with the view to allow users to modify their import and regasification programs in such a way as to provide the responsible of the balancing services with additional resources which the latter can use to maintain the system in equilibrium.

Since its launch on 01 December 2011, the balancing system has proven itself to be considerably liquid and flexible and has allowed price formation in line with the prices in the OTC market and on the gas exchange.

With reference to natural gas trading and exchange, the new developments of 2011 in this respect concerned the definition of the implementing measures of the rules setting an obligation to offer quota of gas originating from respectively imports and gas extraction in the gas exchange managed by GME. The above obligations were established by Decree no. 7 of 31 January 2007 and Decrees of the Ministry of Economic Development of 12 July 2007 and 06 August 2010 (respectively).

With reference to regulated natural gas markets, it is recalled the favorable opinion expressed by the Authority to the Ministry of Economic Development with respect to the amendment to the Regulation on the gas market (MGAS) which is finalized to prevent operators from trading gas with each other at auction sessions so as to avoid the trading of insignificant volumes.

Other new elements introduced in 2011 with reference to the regulation of the natural gas sector relate to the access conditions to transport, storage and regasification facilities and to the quality of distribution services.

In July 2011, the Authority published a consultation document in order to modify the criteria for the allocation of transport capacity at the entry/exit points of storage facilities in such a way as to allocate, by analogy with LNG facilities, transport capacity to the storage system operators which in turn recover the corresponding costs through the tariffs for storage services. The consultation document also proposes a revision of the current discipline which sets the applicable charges to gas operators where a differential exists between conferred capacity and capacity which is effectively used.

Regarding the quality of gas distribution and metering services it is worthy to mention the start-up of procedures for new measures for the regulatory period 2013-2016. In this respect, the Authority has considered, in view of its future resolutions: a) the opportunity of enhancing regulation on security of supply, in order to harmonize to a greater extent the performance of gas companies; b) the need to refine and simplify regulations in the light of the experience gained and of regulatory developments through (i) a review of the current incentives mechanisms employed to reduce gas leakage in the networks and (ii) the promotion of technological innovation in support of security having regard to the different level of concentration of customers along the distribution networks; c) the normative evolution of the discipline which assigns gas distribution services to a single company for each geographical district, and the opportunity to introduce a legal definition of quality and safety standards among the evaluation criteria of the bids offered for the award of the distribution service.

International Coordination

By analogy with the Regional initiatives in the field of electricity, natural gas regions have also been asked to draft three-years working plans to contribute to the realization of the single market by 2014. At the end of 2011 the first version of a Target Model has been published with the contribution of the Italian Authority. Italy takes part in the South-South East region, which is coordinated by the Italian and the Austrian Regulator. The wide geographic scope, different market conditions as well as differentiated level of interconnection represent relevant examples of the challenges associated to the process of integration within the region. The main areas of intervention within the South-South East region concern security of supply and capacity allocation. Moreover, the Authority has proactively participated to the drafting of the Guidelines on Capacity allocation (published by ACER on 03 August 2011) and the Guidelines on the balancing market (published by ACER on 18 October 2011). The above mentioned rules will define the structure of the continental natural gas market and will affect significantly every national system involved, thus requiring a harmonisation effort by all the interconnected systems as a consequence.

Wholesale and retail markets

After the encouraging signs of recovery in 2010, in 2011 the natural gas demand experienced a dramatic drop. According to the provisional data published by the Ministry of Economic Development, the annual gross domestic consumption in 2011 was equal to 77.9 G(m³), down by 6.2% in comparison with the previous year. Final consumption in 2011 has been slightly lower than 2009 results, a year when final consumption levels registered a drop by 8%. The natural gas demand has faced a contraction of 5.2 G(m³), showing a downward trend in almost all sectors.

After a decline that lasted several years in the past, in the last three years natural gas production is holding steady at a level around 8 G(m³)/year. In terms of net imported volumes of natural gas, a drop of 5 G(m³) took place in 2011, therefore decreasing from 75,213 to 70,244 M(m³) and stepping back to 2009 level. The rate of energetic dependence from foreign supply has held steady as compared to 2010 and amounts to 90%. About 75% of natural gas imported in Italy comes from non-EU countries. Natural gas access our Country mostly through pipelines (89%), but the share of LNG has notably increased since Rovigo terminal entered into operation at full capacity. About 5% of total natural gas imported has been acquired on European natural gas exchanges.

In 2011 the total demand for gas, i.e., gas volumes sold on the wholesale and retail market plus self-consumption, was 178.9 G(m³). Of this 98.4 G(m³) refer to the wholesale market, 68 G(m³) to the retail market and 12.5 G(m³) to self-consumption. The number of wholesalers has slightly grown by 3 units, climbing up to 143 players. The level of concentration in this market (net of self-consumption) has shown a downward trend in the past years which led the market share of the first three operators below 30%. In 2011, the overall share of the top three groups - Eni, Edison and Sinergie Italiane - fell from 31.1% in 2010 to 28.2% (it was equal to 39.2% in 2009). The top five companies' overall share, including Enel trade and GdF Suez, decreased from 40.5% in 2010 to 38.7% in 2011 (it was just above 50% in 2009). The Herfindhal index calculated on the wholesale market in 2011 is equal to 0.049, much lower than the threshold of 0.1, which is considered as a benchmark of low concentration. The average price of the overall natural gas exchanged on the wholesale market was 30.71 c€/m³. The entry into operation of the natural gas exchange in Italy (a regulated transparent market) is recent (October 2010). Earlier, operators used to trade on the "Punto di Scambio Virtuale" (PSV), an electronic platform managed by the main transmission system operator (Snam Rete Gas) in order to exchange natural gas capacity and volumes through Over The Counter contracts. In 2011, 125 sessions took place on the Day-ahead-Market: the overall volume of natural gas traded was equal to 148,028 MWh, while the average price was 27.68 €/MWh.

The number of retailers in the natural gas market has grown by three units, reaching a total of 308 players in 2011. The overall volume sold on the retail market decreased from 72.2 G(m³) in 2010 to 68 G(m³) in 2011, thus stepping back to the low level registered in 2009. The retail market continues to exhibit the high concentration noted previously: the top three groups' overall share is equal to 49.5%. This share is now increasing for the first time after several years of decline, and was equal to 47.8% in 2010. As for the wholesale market, the incumbent's (Eni) share is increasing in the retail market, climbing up from 24.7% in 2010 to 26.8% in 2011. The incumbent Eni consolidates its position, with the share of the second operator (Enel) being equal to a mere 11.8%.

The first preliminary calculations on the data gathered in the context of the Authority's Annual survey revealed that in 2011 the retail market for natural gas sales included 20.6 million clients, 92.5% of which was represented by households, 1.2% by central heating, 5.1% by commercial customers and the services sector, 1.2% by industrial clients and less than 0.5% by power plants. In terms of volume, the corresponding proportions tend to be reversed. Moving from the household

sector to those sectors that require natural gas as an input for their production process, the share of natural gas volumes purchased on the liberalised market grows. Indeed, this share of purchase is equal to 11.4% with respect to households, 38% with respect to buildings, 71% in relation to commercial customers and the services sector, 93.7% for industrial customers and 64.4% for power plants (the latter figure is affected by self-consumption). A deeper analysis of the sales (sorted by consumption sector, excluding self-consumption and clients' dimension) confirms that the more customers increase their level of consumption the more such customers tend to move to the free market.

The survey has shown that the share of clients that changed natural gas supplier in 2011 was equal to 5.3%, or 29.9% if calculated on the basis of the overall natural gas consumption of the clients who have changed supplier. The data collected which distinguish the clients by sector and class of yearly consumption have shown a change in the households' behaviour: this category of customers which was generally reluctant to switch to the free market in 2011 appeared more incline to switch compared to the previous years. Indeed, the percentage of clients that chose a new supplier was equal to 5.5% in 2011 and showed an upward trend in comparison to the previous years (respectively 4.4% in 2010, 1.8% in 2009 and 1.1% in 2008). In terms of volumes, these percentages appear slightly higher: 5.7% in 2011, 4.8% in 2010, 2.4% in 2009 and 1.3% in 2008. Customers included into the categories of central heating and other uses are more incline to change supplier.

The provisional analysis of the data collected in the context of the survey carried out by the Authority in 2011 shows that the net average price of natural gas (weighted on the volume sold) on the retail sale market was equal to 39.24 c€/m³. The analogous price in 2010 was equal to 34.85 c€/m³. The price of natural gas has increased by 12.6%, reaching the same magnitude registered in 2008, but with a sensitive spread between free market's prices and reference prices. Clients subject to reference prices have paid an average price for natural gas equal to 50.43 c€/m³, free market's clients have paid 34.78 c€/m³. The spread between the prices of the two markets is around 16 c€/m³, close to the maximum value of 18 c€/m³ registered in 2009. Given that the absolute value of the reference prices has increased as compared to the previous year more than the equivalent price on the free market the comparison with the figures of 2010 revealed that the spread between the prices of the free market and reference prices has grown, reaching a level equivalent to that registered in 2007. The different trend followed by the two types of prices above mentioned is caused by the changes experienced by the two markets which have affected the allocation of the volumes of gas sold among the different classes of consumption in each respective market. The average consumption level of the free market's clients is bigger in comparison to the clients subject to reference prices. On the free market, clients who are directly connected to the transmission system are more numerous as compared to the customers subject to reference prices therefore the former do not pay for the distribution and storage tariffs.

The total number of communications received by the *Sportello per i consumatori dell'energia elettrica e del gas* (the office which receives consumers' complaints) in 2011 was 37,895, thereof 17,857 (around 47.1%) related to the natural gas sector. The overall number of communications has grown in comparison to 2010 by 40%, for reasons mainly associated to the implementation of the "natural gas bonus" (i.e. rebate on price for economic disadvantaged customers and customers with serious health problems). In comparison to 2010 the percentage of complaints slightly grew (92%) whilst the information requests decreased a little bit (7%). The signalling activity remained substantially stable and limited in absolute value.

Consumer protection

The regulation of the Italian Authority on consumer protection, as already pointed out in the Annual reports of the previous years, is particularly developed also considering the specific tasks on this matter already attributed to the Authority by its instituting law (law n. 481/95) and subsequent integrations which already covered most of the provisions contained in the Directives.

The measures on consumer protection (i.e. contractual and billing transparency, automatic refunds, complaints, smart meters, etc.) contained in Annex A of the Directives have been implemented by the Italian Authority through the redaction of a Commercial Code of Conduct to be adopted by energy retailers (since 2006 for the electricity market, since 2008 for the gas market and finally unified in a common Code for both sectors in 2010), the regulation on commercial quality of services, the establishment of procedures for out of court settlement, the rules on the exchange of data between distributors and retailers and the roll out of smart meters in both electricity and gas sectors. Legislative Decree n. 93/11 provides that the Authority should adopt new rules or modify the existing ones in order to "...allow consumers to access to relevant consumption data and oblige distribution companies to allow retailers to have access to consumer's data while having regard to their quality and providing timing timely fashion.". In addition to the existing regulation already mentioned in the Annual Reports of previous years, in 2011 the Authority started a consultation on the terms and conditions for the start up of an Integrated Information System which allows to manage centrally the above mentioned data.

Referring to public service obligations, besides the activities of the *Sportello del consumatore*, instituted by the Authority in 2008 and managed on its behalf by the *Acquirente Unico SpA* for the management of complaints and requests for information, in 2011 the Authority has improved the existing procedures for switching suppliers by increasing the information flow between distributors and retailers and introduced the deadline of 3 weeks, consistent with the provisions of Directives 72 and 73 of 2009, which require operators to effect the change of supplier. Legislative Decree no. 93/11 has moreover provided a new definition of vulnerable customers in the gas sector: domestic customers that benefit of the protection regime (i.e. reference prices) set by Law no. 125/07 and public service activities (i.e. hospitals, retreat rest homes, prisons, schools, etc.). In 2011 a specific inquiry and consultation was begun in relation to numerous customer complaints for false and/or unrequested contracts.

Security of supply

Legislative Decree no. 93/11 attributes to the Ministry of Economic Development the competences in relation to security of supply with the exception of the tasks relating to the monitoring of investments in generation capacity which have been assigned to the Authority. In 2011, the Authority developed a new capacity payment mechanism aimed at increasing the level of coordination among the investment choices of the operators, reducing the risk of coordinated conduct among operators and increasing competition.

3. THE ELECTRICITY MARKET

3.1 Network regulation

3.1.1 Unbundling

Regulation of unbundling

On-line collection of documentation and other material from operators of the electricity and gas networks continued in 2011, as required under Resolution no. 11/07 which established the Unified Text on Unbundling (*Testo integrato unbundling, TIU*). Since 28 April 2011, on-line collection was also extended to data on accounting separation for 2010, as provided for in the TIU.

Following specific consultations held in the second half of 2011, the Authority approved (with Ruling 36/2012/E/com) updates to the TIU concerning the introduction of measures to promote compliance with the mandatory requirements of functional and accounting unbundling for companies operating in the electricity and gas sectors. The updated text is designed to enable the Authority:

- to verify and monitor the adoption by vertically integrated companies, of procedures preventing cross-subsidization between activities that are regulated and those that are open to competition;
- to acquire the necessary economic and technical information and data on assets directly or indirectly required in tariff regulation and in the determination of other system charges.

The measures introduced foresee that in the event of default, the Equalization fund for the electricity sector (*Cassa Conguaglio settore elettrico, CCSE*) suspend all payments due to operators with unbundling obligations until they comply by sending the required communications on functional and accounting unbundling.

Certification of the transmission system operator

With Resolution ARG/com 153/11 the Authority regulated the procedures for certifying companies that provide transmission services for electricity and natural gas in light of the provisions introduced by Legislative Decree no. 93 of 01 June 2011, which implemented EU Directives 2009/72/EC and 2009/73/EC into Italian legislation. These procedures establish the schedule and accomplishments that firms owning natural gas transport networks and the power transmission company must comply with to be certified according to the unbundling models established in Decree 93/11.

As regards the National power transmission company (*Rete di trasmissione nazionale, RTN*), the certification procedure refers back to the model of ownership unbundling specified in Directive 2009/72/EC and requires that the company demonstrate:

- ownership of the electricity transmission network;
- effective separation of corporate control and corporate bodies from those of companies engaged in production and supply of electricity;
- the capability to perform the tasks involved in the management of the electricity transmission network;

- the ability and decision-making autonomy required in the preparation of the ten-year development plans of the power transmission system;
- the ability to manage commercially sensitive information confidentially and to make it available in a non-discriminatory way;
- confidentiality in the handling of information by employees of the transmission company and supporting companies.

The procedure for the certification of the RTN introduced by Resolution ARG/com 153/11 also includes authentication on the part of owners of portions of the transmission grid other than the RTN.

With Resolution 22/2012/com¹ the Authority established specific standards and protocols for communicating the data required for the certification of the RTN, as well as procedures for handling these data by the departments and personnel of the Authority. Work is currently underway to analyze and assess the conformity of the information submitted by Terna with the regulatory norms, as required for certification.

3.1.2 Technical functioning

Dispatching services

The conditions for the provision of dispatching services and for the supply of resources based on economic merit order in such a way as to ensure the fair allocation of imbalances were established by Resolution 111/06² and subsequent amendments. The market for dispatching services has been redesigned by ministerial decrees and decisions on the part of the Authority in accordance with Law no. 2 of 28 January 2009. The measures undertaken provide incentives to improve efficiency, the promotion of market integration and security of supply, in line with the provisions of the Third Package (art. 37. par. 8 of Directive 72/2009/EC). The strong development of non-programmable renewable sources has required further revisions.

With ARG/elt 160/11³, the Authority launched a revision process for the Guidelines for dispatching services with the aim of adapting them to new requirements caused by renewable non-programmable generation for the procurement of the dispatching resources, for the efficient allocation of the costs of dispatching on the agents causing them and to allow greater penetration of distributed generation. In particular, the resolution seeks to respond to the need to:

- expand the range of operating frequencies of distributed generating plant, aligning it with that foreseen for systems connected directly to the RTN, in order to mitigate the risk of "domino effects" in the event of a serious network accident;
- allow Terna, in the absence of viable alternatives, to replenish the reserve margins based on selective reduction of distributed generation inputs, including renewables, beginning with medium voltage connections;
- promote greater accountability on the part of dispatching plants fueled by non-programmable renewable energy sources through more proficient forecasting of power deliveries to the grid, thus avoiding that imbalance costs are borne solely by consumers of electricity;

¹ Resolution of 02 February 2012.

² Resolution of 09 June 2006.

³ Resolution of 17 November 2011.

- evaluate possible revisions to the current dispatching discipline taking into account the rapidly changing structure and context of the market and the consequent need for greater flexibility of the system;
- order Terna to quantify on a regular basis the maximum penetration of intermittent renewable power generation (with particular reference to wind farms and photovoltaic plant), compatible with the structure of the system.

With Resolution 84/2012/R/eel⁴ the Authority approved Annex A70⁵ of the Grid Code which defines the timing of Terna's implementation of the obligations concerning distributed generation for the provision of network services, distinguishing between new installations and existing plant.

In consultation document 35/2012/R/efr⁶, the Authority presented its views on the regulation of dispatching services for non-programmable power generation units, with the primary objective of promoting greater accountability on the part of the users of these services, so as to reduce the costs of imbalances to consumers.

Concerning more general dispatching issues, the Authority has issued measures increasing the efficiency of information exchanges between different operators. With consultation document DCO 7/11⁷ the Authority conveyed its views on settlements, disciplined by the Unified text on settlement (TIS), in order to overcome criticalities emerging with distribution companies in relation to the deadlines for providing Terna with the data required for annual settlement and rectifications thereof. With the resulting Resolution ARG/elt 56/11⁸, the deadline for providing such information was brought forward, as proposed in the consultation.

Technical regulation of networks

In recent years the electricity sector has gone through remarkable changes with potentially very significant impacts on network structure and associated energy losses. In particular:

- the strong growth of distributed generation has, on the one hand, led to greater proximity of generating plant to consumer premises, thus reducing losses, but on the other, due to the location of some renewable energy plants in areas with limited or no consumption, may also determine an increase in losses and changes in network operation;
- since 2004 (the year when standard loss factors were last updated) to the present, electricity grids have undergone a constant process of improvement in efficiency and management, partly as a result of tariff incentive mechanisms adopted by the Authority, which should have resulted in a decrease in line losses.

Based on the above considerations, the Authority has decided to launch an assessment of the adequacy of the standard loss factors for electricity transmission and distribution, and the possible need to update them. In the framework of the procedure opened with Resolution ARG/elt 52/11⁹, the Authority commissioned the Department of Energy of the Polytechnic of Milan, to prepare a study aimed at evaluating the losses on the transmission and distribution networks. Based on the findings of this study, the Authority has launched a consultation¹⁰ to revise the standard loss

⁴ Resolution of 08 March 2012.

⁵ Technical regulation of system requirements of distributed generation.

⁶ Resolution of 09 February 2012.

⁷ Resolution of 23 March 2011.

⁸ Resolution of 05 May 2011.

⁹ Resolution of 28 April 2011.

¹⁰ Consultation document 13/2012/R/eel of 28 January 2012.

factors applicable to electricity fed into the medium and low voltage networks, taking into account, among other things, the expected development of distributed generation.

Smart grids

The Authority introduced in the Unified Text on Transport (*Testo integrato trasporto, TIT*) dedicated incentives for smart grids aimed to develop distribution networks, according to the obligatory objectives set by the European Union in view of a significant penetration of renewable production sources. In particular distribution companies could access an increased remuneration rate of return on invested capital of 2% for 12 years in order to allow the introduction of new network technologies that can integrate the behavior and actions of all users/consumers connected to the network (generators, end users and mixed connection points) and assure an efficient, sustainable and secure supply of energy.

With Resolution ARG/elt 39/10¹¹, according to art. 11.7 of TIT) the Authority has defined the selection procedures and criteria of smart grids investments and some distribution companies have accordingly applied for admission to the incentive regime.

The Authority published a merit list of the analyzed applications (resolution ARG/elt 12/11¹²) based on the ratio of benefit and costs of each project and has admitted 8 projects to the incentive regime. Resolution ARG/elt 39/10 also foresaw that each project admitted to the incentive regime should send to the Offices of the Authority a Report on the state of art of the project. From such reports the state of art of the projects appears to be slightly behind the envisaged deadlines.

Regulation of network security and reliability

The so-called essential plants for power system security are those plants identified as technically and structurally indispensable for the resolution of network congestions and the maintenance of adequate levels of security of the national electricity system, for significant periods of time. Resolution ARG/elt 52/09¹³ confirmed part of what had already been decided in Resolution no. 111/06¹⁴ and distinguished three different remuneration schemes for essential plants¹⁵:

- normal remuneration of standard costs;
- integration of extra costs;
- forms of remuneration based on alternative ways of fulfilling the obligation.

Right of access to integration of extra costs is based, on the one hand, on the unlikelihood that the plants are capable of ensuring an adequate return on invested capital in the absence of integration of the extra costs, given that they have to submit offers on the energy and ancillary services markets based only on variable costs. On the other hand, it is based on the expected additional benefits compared to even partial exclusion of the plants from the list of essential plants.

With Resolution ARG/elt 110/11¹⁶, the Authority intervened in the criteria for determining the remuneration of essential plant under the standard and integration of extra costs regimes, in

¹¹ Resolution of 25 March 2010.

¹² Resolution of 08 February 2011.

¹³ Resolution of 29 April 2009.

¹⁴ Resolution of 09 June 2006.

¹⁵ For the definition of the remuneration regimes for plants that are essential for the security of the system, please refer to the Annual report on the state of services and activities conducted in 2011, vol. II, Chapter 2.

¹⁶ Resolution of 04 August 2011.

order to adapt the fees to changes in the emission allowance markets¹⁷ and to define procedural aspects associated with the recognition of costs. In addition to confirming certain provisions valid in 2011 also for 2012, the resolution simplified the methodology for calculating the variable cost component against imbalances and updated the reference prices of generating fuels.

The criteria for determining the remuneration of essential plants under the standard and integration of extra costs regimes has been completed with the adoption of the Resolutions ARG/elt 129/11 and ARG/elt 172/11¹⁸. The first confirms the values proposed by Terna for the standards for fuel consumption, emissions and the cost of additives as well as of waste disposal for the various combinations of combustion technology/fuel while the second establishes the adequacy of the standard values specific to essential plant units.

Following the submission of specific applications, the Authority issued Resolution ARG/elt 208/11¹⁹ which allows the integration of extra costs for the year 2012, for the following essential facilities: Montemartini owned by Acea Energy Holding; San Filippo del Mela owned by Edipower; Augusta, Bari and Sulcis owned by Enel Produzione; Centro Energia Ferrara owned by E.ON Energy Trading. In addition, the Porto Empedocles plant was admitted to the integration of extra costs for a multi-year period for the implementation of the investments required to adapt to environmental norms.

Resolution ARG/elt 142/11²⁰, established the technical and economic parameters required to choose among the various possible alternative methods for fulfilling the obligation, such as the minimum amount of committed power, the level of energy provided, the maximum ramp-up and minimum ramp-down prices and the remuneration.

As for the year 2011, in 2012, some users of dispatching services expressed their intention to adhere to alternative schemes for partial quantities. With Resolution ARG/elt 176/11²¹, the Authority therefore changed the values of some parameters to account for the effects of the choice of operators on the minimum power committed. Subsequently, Resolution ARG/elt 209/11²² approved contract proposals prepared by Terna for essential plants subscribing to alternative methods for fulfilling the obligation in 2012.

Time of connecting to the transmission and distribution networks

Concerning the time of connecting to the grid the data reported here below refer only to the activity of Terna in 2011. The Italian network operator received in 2011 around 350 applications for the connection to the grid by production plants for an overall amount of 15 GW and, in the same year, delivered 330 quotations for connection fees, corresponding to applications amounting to around 12.6 GW of installed capacity with an average delivery time of less than 66 working days, with the exception of allowed interruptions.

Around 150 quotations delivered by Terna, out of the overall applications, were accepted in 2011 by applicants corresponding to an overall amount of 5.1 GW and for only four of these (around 330 MW overall) the Minimum Technical Detail Solution (*Soluzione tecnica minima di dettaglio*,

¹⁷ In specific, these particular interventions made it possible to reduce the potential distorting impact that the share values of CO2 emissions derived from the characteristics of both the national registry of the *Emissions Trading Scheme (ETS)* and the reference values from the ETS markets.

¹⁸ Resolutions respectively of 30 September and 01 December 2011.

¹⁹ Resolution of 29 December 2011.

²⁰ Resolution of 20 October 2011.

²¹ Resolution of 06 December 2011.

²² Resolution of 29 December 2011.

STMD²³) was applied for. Moreover 3 STMD, for around 310 MW with average time for their delivering, net of allowed interruptions, of 28 working days were made available by Terna. All STMD proposed by Terna to connection applicants were accepted but none of them have been implemented. In 2011 Terna connected only 1 passive user with an average connection implementation time of 615 working days, excluding the time for the request of other possible authorization.

With reference to the connection of electricity production plants to the distribution network the data refer only to activities in 2011 by distribution companies with more than 100,000 customers. In 2011 distribution companies have received more than 150,000 applications for electricity production plants to be connected to the low and medium voltage network for an overall capacity of 11.1 GW and have, at the same time, delivered around 140,000 quotations for connection fees (corresponding to around 8.7 GW) with average time for the delivering of such quotations (net of allowed interruptions) of:

- 16 working days for intake power applied for up to 100 kW;
- 34 working days for intake power applied for over 100 kW and up to 1,000 kW;
- 53 working days for intake power over 1,000 kW.

Little less than 116 quotes of the total made available were accepted in 2011, corresponding to a total of 4.2 GW. In 2011 more than 97,000 connections to the distribution network were implemented for around 1.8 GW and for an average connection time (net of allowed interruptions) of:

- 18 working days for simple works;
- 37 working days for complex works²⁴.

In 2011 distribution companies received 75 applications for the connection of electricity production plants to the high voltage network for an overall amount of 890 MW and during the same year delivered to applicants 44 quotations for connection fees (around 69 MW) with an average delivery time for these quotations of 44 working days, at a net of allowed interruptions.

Exactly 31 quotations out of the total delivered by distributors were accepted by applicants in 2011 for around 350 MW and only for two of these the application was for a STMD connection (20 MW). Moreover another STMD connection was proposed for around 7 MW with a connection time, at a net of allowed interruptions, of 7 working days. The STMD was accepted by the applicant of the connection but was not completed before the end of the year. With reference to passive users, on the grounds of the preliminary estimates available in 2011 little over 330,000 connections to distribution networks were completed for the majority in low voltage. The average connection time was 13.5 working days and for low voltage users in particular it was just over 9 working days.

²³ The "Minimum Technical Detailed Solution" according to resolution no. 99/08 is the connection needed to satisfy the connection application, compatible with the criteria and size of standard intervals of components adopted by the transmission operator.

²⁴ Simple works are the implementation, modification or full substitution of the plant of the network operator with an intervention limited to the intake and eventually the metering group. Complex works are all the rest.

Table 3.1 Number of connections of passive users with distribution networks and average time to connect in 2011. ^(A)

VOLTAGE LEVEL	NUMBER OF CONNECTIONS	AVERAGE TIME (WORKING DAYS) ^(B)
Low voltage	331,702	9.1
Medium voltage	1,690	24.7
TOTAL	333,392	13.5

(A) Provisional data.

(B) Value calculated without taking into account networks without connections, excluding the time to obtain authorizations and/or other possible administrative procedures on the side of the customer.

Source: Annual inquiry on regulated sectors.

Regulation of technical quality

The Authority undertakes reviews of tariffs and quality of services regulation every four years. The need to conduct these reviews in parallel descends from the need to provide the regulated businesses with stimuli suitable to ensure adequate quality levels, to ensure that cost reduction is not obtained at the expense of quality of service.

During 2011, regulatory activities on the quality of electricity services focused on transmission, distribution and metering in the regulatory period 2012 - 2015, based on the procedure launched with Resolution ARG/elt 149/10²⁵. Rulings adopted at the end of the process on 29 December 2011 were ARG/elt 197/11 and ARG/elt 198/11, respectively, on the quality of transmission, distribution metering services.

Resolution ARG/elt 198/11 maintains the existing regulatory system essentially unchanged in its objective of promoting improvements in the continuity of electricity supply based on a mechanism of rewards/penalties, to achieve target levels that are uniform throughout the country and differentiated only by network type, by 2015 for the duration of interruptions and by 2019 for the number of interruptions. In this perspective the resolution introduces incentives designed to reward a rapid convergence between the levels of continuity in the North and South, without any impact on the tariff. It also introduces a provision whereby distribution companies with less than 25,000 clients can adhere voluntarily to rewards/penalties mechanism for the duration and number of interruptions.

Resolution ARG/elt 198/11 introduces short interruptions (lasting between one second and three minutes) among the continuity standards for medium voltage clients; previously individual standards were in force only for interruptions longer than three minutes. Automatic indemnification is confirmed for medium voltage customers in cases where distributors fail to comply with the standards, with the novelty that the compensation is based on the actual power interrupted instead of the average power interrupted, previously calculated on a conventional basis. In parallel, the unit charge for compensations was increased to € 2.7/kW (when fully operational) for customer off take and 0.1 €/kW for distributor input. Moreover, mechanisms selectively shielding the network from failures in medium voltage customer equipment were introduced so as to prevent their causing interruptions to neighboring facilities, even to customers supplied at low voltage.

²⁵ Resolution of 27 September 2010.

Furthermore, Resolution ARG/elt 198/11 adopted new initiatives on voltage quality, with particular reference to the so-called "voltage dips" (voltage drops that are insufficient to cause interruptions) and other voltage problems that can have adverse consequences for customers requiring maximum voltage stability. In particular, the resolution has launched a voltage monitoring project, to be completed in three years starting in 2012 that obliges distribution companies to monitor voltage drops at every medium voltage bus bar in their transformer substations using approved equipment, to be put in service by 31 December 2014. Distribution companies now have the obligation to report voltage dips recorded at the bus bar feeding them, with a given frequency. During the regulatory period 2012 - 2015 summary indicators will be developed to monitor network performance regarding voltage dips. As for low voltage customers, the Authority can at any time require distribution companies to carry out surveys on voltage stability through the electronic meters installed at almost all customer premises.

Regulation of commercial quality

The four-year review of quality of service regulation also focused on commercial quality. Separation between distribution and sales activities obliges customers requiring distribution and metering services to request them through their retail supplier, usually by telephone. Consequently there is a risk of discrepancies in the handling of customer inquiries by both retailers and distribution companies resulting in delays in the preparation of cost estimates and in the implementation of works. The Authority therefore decided to intervene to ensure equal treatment to customers and certain times for the fulfillment of their requests, in particular through the classification of well-defined works and the introduction of swift cost estimates to be given on call by the retailer. More specifically, Resolution ARG/elt 198/11 introduces the following innovations:

- the introduction of two new specific standards: the maximum time for the replacement of defective meters and the maximum time to restore the correct voltage;
- greater uniformity in the handling of customer complaints by retailers;
- the extension of some commercial quality standards to power generators, specifically: the maximum time to communicate the outcome of controls on meters belonging to the distributor; the maximum time to replace malfunctioning meters belonging to the distributor; the maximum time to communicate supply voltage quality and the maximum time to restore the correct voltage value;
- the possibility for medium voltage customers to request verification of latent short circuits at their connection with the medium voltage network;
- the possibility for building managers to require the relocation to a common place of at least four meters on behalf of customers;
- the revision of the minimum automatic compensation to: 35 € for low-voltage domestic customers, 70 € for low voltage non-domestic customers and 105 € for medium voltage customers.

Worthy of mention is the explosive growth of low and medium voltage connections, caused by the strong development of renewable generation. In 2011 the distribution companies received more than 150,000 requests for connection to renewable generating facilities, corresponding to a total installed power of about 11.1 GW; in the same year they provided cost estimates for around 140,000 of these, corresponding to a total capacity of about 8.7 GW. The average time to provide the cost estimates, excluding non-working days, was:

- 16 working days for installed capacity of up to 100 kW;
- 34 working days for installed capacity between 100 kW and 1,000 kW;
- 53 working days for installed capacity of greater than 1,000 kW.

Just under 116,000 of the total number of those prepared were accepted in 2011, corresponding to a total power of about 4.2 GW. Moreover, more than 97,000 connections, corresponding to about 1.8 GW, were actually completed with an average implementation time, excluding non-working days of:

- 18 working days for simple works;
- 37 days for complex works.

Monitoring the safeguard measures of the electricity system

Article 4 of Legislative Decree no. 93/11 defines the safeguard measures to be adopted by the Ministry of Economic Development in case of sudden crisis of the electricity system and/or the physical integrity or the security of people and instruments are at risk as from art. 42 of Directive 72/2009/EC. Article 43.2.c) of the same decree attributes to the national regulator monitoring duty on the application by operators of such measures in compliance with art. 37.1 t) of Directive 72/2009/EC.

The Terna Code of conduct, defined by the TSO according to the guidelines provided by the Italian regulator with ruling no. 250/04 and approved by the Authority contains all the measures needed in order to ensure both the secure management of the dispatching system – also through the availability of interruptible services with and without alert – and the safeguard and security of the electricity system with the definition (in Annex) of the Electricity System Emergency and Security Plan (*Piano di emergenza e sicurezza del sistema elettrico, PESSE*²⁶) and of the Electricity Network Defense Plan. Any proposal of modification of the Network Code and of its Annex by Terna requires approval by the Authority.

The PESSE, originally defined by the 06 November 1979 CIPE resolution with the aim of assuring a secure management of the electricity system and avoid large scale black-outs, foresees the possibility to suspend on a temporary and rolling basis, with alert, the service to low and medium voltage domestic customers²⁷ and, in evening hours, also industrial non-interruptible customers. The Electricity Network Defense Plan, besides providing some cases in which the service to domestic customers can be suspended on a temporary and rolling basis with alert provided all the possible technical measures that the TSO can adopt in order to assure the management of a secure system.

All information and data by the TSO referring to the adoption of PESSE, of the tools of the Electricity Network Defense Plan and of the access to interruptible customers are communicated to the Ministry of Economic Development and the Authority on a regular basis. Whether the Authority finds it appropriate it may open specific inquiries which might be followed up by ad hoc formal investigations. In 2011 the Authority did not conduct any activity on the issue.

²⁶ The current PESSE, Annex A of the Network Code of Terna, has been approved the 01 July by the Ministry of the Budget and Economic Planning.

²⁷ End-user customers with serious health problems that can prove the use of life saving electromedical instruments as defined by the rules that govern the “social bonus” (Decree of 28 December 2007 of the Ministry of Economic Development and resolution ARG/elt 117/08) are normally exempted from large-scale PESSE interruptions. Such customers can however be interrupted, if this is necessary to activate the PESSE, for a limited time; in such cases they receive a personalized alert as from art 3. of Resolution ARG/elt 117/08 and following integrations and modifications.

3.1.3 Network tariffs for connection and access

Connection of generating plants to the networks

With Resolution ARG/elt 187/11²⁸, which updated the Unified Text on Active Power Connections (*Testo unico sulle connessioni attive, TICA*), the Authority addressed the problem of network saturation by providing that in case of electrical connections in critical areas or on critical lines, upon receipt of the cost estimate for the connection, applicants other than domestic customers must pay the network operator a fee of 20.25 € for each kW of power to be connected.

This particular measure does not apply to merchant lines or renewable and high efficiency co-generation plants to be connected to the RTN even in critical areas or lines.

The fee for the reservation of capacity is returned in cases where the applicant withdraws from the initiative or the initiative fails within two years of the date of acceptance of the cost estimate, or even after two years when the withdrawal is for reasons beyond the applicant's responsibility. In all other cases the fee for the reservation of network capacity is retained by the network operator and paid to the CCSE. The provisions of resolution ARG/elt 187/11 also apply to requests for connection already presented to the network operator. Only in this way, can these provisions become effective, since the potential saturation of power networks is already very substantial today.

Connections and incentives for PV plants

With regard to the incentive mechanisms of photovoltaic (PV) plants, with Resolution ARG/elt 149/11, the Authority implemented the measures foreseen by the Joint inter-ministerial decree of 05 May 2011²⁹ which, by setting the incentive mechanism for PV plant that enter into operation from 01 June 2011, provided that the Authority shall:

- Set the rules according to which the resources needed for the incentive tariffs and for the activities foreseen by the above-mentioned decree, are covered by the A3³⁰ component of the electricity tariff;
- Update the provisions for the metering of the electricity generation and determine that the network operators to which such plants are connected are in charge for these services;
- Lay down the rules for the remuneration of the certification activity of “completion of works” by the network operators, as provided by art. 9.b) of the same decree;
- Update and integrate its provisions for the connection to the grid with particular attention to the implementation of art. 2, par. 12, g) (power to conduct inspections and to decide automatic refunds) of Law no. 481/95, for cases when the failure to respect the time for connection by the network operators implies the loss of the right to an incentive tariff without losing the power to set sanctions as provided by art. 2, par. 20, c), of the same Law no. 481/95.

²⁸ Resolution of 22 December 2011.

²⁹ Joint Decree of the Ministry of Economic Development and the Ministry of the Environment of 05 May 2011.

³⁰ The cost of the energy supplied to end user customers is composed of the regulated tariffs for the use of infrastructure (network, storage and metering), the supply price (gas/ electricity, dispatching/balancing), taxes and some tariff components that are to cover the costs of activities of general interest. Among such general interest components in the electricity sector the A3 component covers the cost of RES incentives.

Transmission tariffs

With Resolution ARG/elt 199/11³¹, the Authority approved the provisions relating to tariff regulation for electricity transmission, distribution and metering for the fourth regulatory period 2012–2015, thus completing the procedure opened with Resolution ARG/elt 6/11³². The resolution:

- sets the rate of return on invested capital for transmission services equal to 7.4%;
- adjusts the rate of return by 1% in the case of recognized new investments, to offset the financial effects of regulatory lag in their approval;
- determines the invested capital based on the revalued historic cost, assuming a parametric estimate of the capital increments accomplished prior to 2004 and the actual increments for investments made in subsequent years;
- includes in the category with greatest incentives only projects considered strategic for the national energy system, tying the incentives to the pace of investment and to compliance with the deadline for completion of the works, aiming at greater accountability for timely implementation;
- determines the operating cost recognized for 2012 from the actual cost in 2010, taking into account the efficiencies achieved by companies in the second and third regulatory period which have not yet been transferred to customers. The productivity gains (X-factor) in the fourth regulatory period has been set equal to 3% in order to allow recovery by 2015 of the efficiencies realized by firms in the second regulatory period and by 2019 of those achieved in the third period;
- introduces a binomial tariff structure (power/energy) to cover the costs of transmission, with reference both to the rate applied by the operator of the transmission system at the interconnections with the distribution networks and to the rate applied for transmission to customers connected directly at high and very high voltage.

Distribution tariffs

As regards distribution, the Authority has maintained the general approach which identifies a mandatory tariff applied to end users and a reference tariff for each distribution company to determine the allowed revenue. The mandatory tariff is updated annually to guarantee meeting the budget constraint for each type of contract. In order to ensure coherence between the reference tariffs and the underlying costs of service, the allowed revenues are based on a monomial reference tariff, expressed in c€/delivery point/year, differentiated by voltage level, with the exception of public lighting, for which the reference price is expressed in c€/kWh. The reference tariff to cover the marketing costs is based on nationwide standards, in order to favor efficient management of the service.

Resolution 157/2012/R/eel³³, determining reference tariffs for the distribution companies, was adopted with some delay, in consideration of the fact that the data provided by the firms were often poor and required further refinement and review. The resolution:

³¹ Resolution of 29 December 2011.

³² Resolution of 31 January 2011.

³³ Resolution of 26 April 2012.

- determines the invested capital based on a hybrid methodology using a parametric approach for capital additions prior to 2008 and on the actual values for investments made from 2008 onwards;
- establishes a rate of return on invested capital of 7.6% for investments made up to 31 December 2011, and 8.6% for investments made thereafter, so as to offset the financial effects of regulatory lag in recognition of investments;
- recognizes for investments entering service after 31 December 2011 increases in the rate of return on invested capital of 1.5% for 8 years for the replacement of new MV/LV low loss transformers, 2% for 12 years for innovative pilot projects (such as smart grids³⁴), 1.5% for 12 years for the renewal and strengthening of medium-voltage networks in city centers, 1.5% for 12 years for upgrading transformer capacity of primary stations in critical areas, 2% for 12 years for pilot projects on selected storage systems;
- determines the operating cost for distribution services for 2012 starting from the actual cost in 2010, taking into account the efficiencies achieved by companies in the second regulatory period whose value has remained with the network operators and those achieved in the third regulatory period whose value has been shared equitably between network operators and customers. The productivity gains (X-factor) in the fourth regulatory period has been set equal to 2.8%, applied only to the reference tariff to cover the costs of infrastructure development.

Metering tariffs

With Resolution ARG/elt 199/11, the Authority launched a process to rationalize the regulation of electricity metering services by establishing the Unified Text for Electricity Metering Services (TIME). This includes a first body of provisions extracted from the Unified Text on Transport (TIT) and aims at providing a coherent and uniform discipline covering all aspects of metering, avoiding mismatches between the different regulatory provisions on measurement service, now in force.

In due course, the Authority intends to review the responsibilities for metering services, with particular reference to the competences of the RTN at connections with generating plants, with the main objective being the correct attribution of responsibilities of the different operators in relation to the measurement and reporting of the data for the needs of the users of the service. A number of changes compared to the previous regulation were already introduced starting on 01 January 2012, specifically with reference to:

- the determination of the standard recognized operating costs and the X-factor, aligning the time horizon for the incorporation of the extra productivity gains to that foreseen for the distribution service;
- the separation of the portion of the tariff covering the residual value of decommissioned meters, with a view to charging such costs using a separate constant value tariff component, by the year 2027;
- entrusting Terna with responsibility for the recording and registration of measurements at connections of generating plants with the RTN and of end customers connected directly to the RTN, in order to dispose of the information required for the development of regulation.

³⁴ Selected with Resolution ARG/elt 12/11 of 08 February 2011.

Exclusion of cross-subsidies among activities of the sector

In 2011 the Authority initiated proceedings against 3 electricity companies (*AGSM Verona SpA*, *AGSM Distribuzione SpA* and *AGSM Energie SpA*) for the presumed violation of the measures of compulsory account and functional unbundling. The mentioned measures, introduced in the Italian ruling already in 2007 with the Resolution 11/07 “Obligations for the account and administrative unbundling of the companies *active in the electricity and gas sectors*” in order to, among other things, prevent the companies active in the electricity and gas sectors from cross-subsidizing different vertically-integrated activities.

3.1.4 Regulation of access to cross-border infrastructures and international cooperation on related issues

Access to infrastructures and management of congestions

The Authority actively contributed to the ACER Working Group for the preparation of the three Guidelines published by Acer in 2011 concerning connections to networks, capacity allocation and congestion management.

The Guidelines on capacity allocation and congestion management is the most important document approved for the electricity sector in 2011. It is a measure which, in addition to revising the current rules for calculating transport capacity identifying a system of zones for the future single market, also disciplines the market models with which the different European systems must comply. Over the longer term it provides for the allocation of capacity rights by means of explicit auctions, the introduction of market coupling for daily allocations and a single European platform for intraday capacity use.

One of the most important provisions regards the allocation of daily capacity through implicit auctions (i.e., whereby transport capacity is allocated implicitly with energy transactions), with the coupling of all the European power exchanges and the application of a market coupling mechanism at the continental level. This form of coupling requires the adoption of a single algorithm to define the market prices in the different systems and simultaneously identify the allocation of the available transmission capacity. Considerable efforts are required to harmonize the timing of acceptance of offers, the management of different products (hourly and more complex offers), the definition of commercial relations between the different exchanges and the network operators, etc.

With regard to the coordination of Regional initiatives, the Authority has contributed to ensure continuity in the transition from ERGEG to ACER and to the revision of their role under the new legal and regulatory environment. With the approval of the Guidelines on the allocation of capacity and congestion management (Target Model), published on 29 July 2011, ACER established cross-regional projects coordinated by the national regulators and defined for each a detailed cross-regional road map to 2014. The Italian Authority, in collaboration with the German authority (BNetzA), was tasked with coordinating activities related to the preparation of the roadmap for the day-ahead market coupling, with the ultimate goal of coupling the day-ahead markets by 2014.

The Authority has been contributing to the ongoing debate concerning the choice of a common algorithm for the management of market coupling and cost sharing arrangements between TSOs (Transmission System Operators) and power exchanges. In addition, it focused on the activities of

the Centre-South region (coordinated by the Authority and including Italy, Austria, France, Germany, Slovenia, Greece and Switzerland as an observer country) on the priority areas identified by the Target model. An important goal achieved by the Centre-South region is the harmonization of allocation rules with the Centre-West region. In the past year the Centre-South region implemented the agreement between the different network operators in the region with the Luxembourg CASC (Capacity Allocation Service Company) company, which is a single trading interface for the purchase of transmission capacity. The auction procedures for the allocation of capacity on an annual, monthly and daily basis were launched at the end of March 2011.

Integration of the Italian and Slovenian day-ahead markets

On 01 January 2011, the Italian Power Exchange (governed by the GME) and the Slovenian Power Exchange (BSP) launched coupling of their day-ahead markets for the implicit assignment of the daily transit rights on the Italy–Slovenia interconnection, with a positive impact on economic efficiency in the allocation of cross-border capacity. The capacity allocated through annual and monthly explicit auctions, unnamed and sold on a daily basis coupling the two markets (implicit auctions) increased strongly. In coherence with the price differential between the Italian and Slovenian exchanges, market coupling resulted in imports to Italy during 96.7% of the hours and the remaining 3.3% in exports to Slovenia. On the other hand, on the borders with daily capacity assignment based on explicit auction, energy flows often occurred which were incoherent with the price differentials in the corresponding price exchanges, as already reported by the Authority on previous occasions.

The agreement between Italy and Slovenia, terminating on 31 December 2011 but extended to 30 June 2012, contemplates reaching a new agreement towards the end of 2012 to establish a market coupling mechanism for the year 2013, suitable as a basis for a possible extension of the project to other countries.

Investments in new networks and their coherence with Community development plans

Under Article 36 of Legislative Decree no. 93/11, which implements Directives 2009/72/EC and 2009/73/EC into national law, by 31 January of each year the transmission system operator must prepare a Ten Year Plan of development for the national network (RTN). The Authority is required to carry out a public consultation on the plan, publish the results and transmit them to the Minister of Economic Development.

With resolution 102/2012/R/eel³⁵, the Authority issued specific requirements for consultation of the ten-year development plan of the RTN, and moreover imposed a procedure for monitoring implementation of the Plan by Terna. Pursuant to Article 37, paragraph 1, letter g) of Directive 72/2009/EC, regulatory authorities are required to supervise the investment plans of the TSOs and to provide, in their Annual Report, a review of such programs in regard to their compliance with the network development plans at the Community level. During 2011, ENTSO-E approved only a first pilot project of the Ten Year Plan of development of the European network.

Coordination with other European regulators and ACER

Coordination at the European level has seen the Authority for Electricity and Gas engaged on three fronts: ACER, the CEER and Regional initiatives. The main objective of this commitment has been

³⁵ Resolution of 22 March 2012.

the promotion of an integrated, competitive and efficient European energy market in line with the implementation of the so-called "Third energy package".

As suggested above, in ACER's first year of activities, the Authority together with other Member country regulators contributed to the preparation of the ACER guidelines for the electricity and gas sectors. The Guidelines are non-binding guidelines setting out objectives and principles guiding ENTSO-E (European Network of Transmission System Operators for Electricity) and ENTSO-G (European Network of Transmission System Operators for Gas) in the preparation of the Europe wide Network codes governing market integration and cross-border issues, with the aim of contributing to the effective functioning of the internal market in electricity and gas.

Within the CEER, the Authority has continued to contribute to activities not directly covered by the ACER, focusing its attention on providing advice to the European institutions on consumer issues, smart grids and meters, on sustainable development.

Collaboration with the EU Third countries

The collaboration of the Authority with Third countries has mainly developed through the existing institutions and cooperation associations among EU and non-EU regulators of the Balkan area and of the Mediterranean to which foundation the Authority has significantly contributed in the past.

In 2011, the Authority continued its contribution and growing commitment to the activities implementing the Treaty establishing the Energy Community of Southeast Europe (ENCT), through direct and continuous participation of its representatives at meetings of the European Community Regulatory Board (ECRB) and its working groups and forums on electricity (Greece) and gas (Slovenia), which aim to share decisions taken at institutional level with the stakeholders of these sectors. In the past year the Italian Authority, represented at the highest levels, participated in three meetings of the ECRB. In the electricity sector, the working group for the electricity sector, chaired by the Serbian regulator adopted a regional Action plan for the elimination of remaining obstacles to the opening of the wholesale market in the region. This plan aims to create both a single platform for implicit auctions with daily, monthly and yearly horizons, and a uniform balancing mechanism compatible with the European model.

In 2011, the Authority continued its international commitment in the Mediterranean area through MEDREG (Association of the Mediterranean Regulators for Electricity and Gas), of which it is the founder and sponsor, celebrating its fifth anniversary in this year. After two terms of presidency, the Authority has been appointed with the status of Vice Chairman together with the Spanish regulator (CNE) and is host to the Permanent Secretariat at its headquarters in Milan. MEDREG represents a model for cooperation between regulators in the Mediterranean area; it includes among its objectives the achievement of the energy community of this area by 2020. Among the cooperation issues discussed in 2011: best practices for consumer protection in the Mediterranean area, cross-border exchanges of electricity, development of smart grids, rules for a wholesale trading platform, future gas demand and supply infrastructure, third party access to networks, implications of renewable energy promotion, cogeneration and energy efficiency, structure and organization of renewable energy production systems.

During the past year the Authority participated in the activities of the European Union for the Mediterranean, launched in 2008 by the heads of State and governments of 43 countries on both shores of the basin; among its major projects, it includes the Mediterranean Solar Plan, aiming at the promotion of 20 GW of renewable energy generation by 2020, based on wind and solar plants located on the south-eastern shores of the Mediterranean. In particular, the Authority has

participated in meetings on various aspects of electricity market and renewable energy regulation in relation to the Mediterranean Solar Plan project.

Finally, a word of mention of the activities of the ICER where the Authority, representing MEDREG, chaired the Working Group on the Role of energy regulators in ensuring the reliability and security of supply at national, regional and global levels. This work was presented at the Fifth Forum of Energy Regulators, held in Quebec City in May 2012.

3.1.5 Compliance

Implementation of the Third package: Legislative Decree no. 93/2011

The main measures for the implementation of the Third Energy package in Italy pursuant to the 2009 Community Law, are contained in Legislative Decree no. 93 of 01 June 2011, approved by the Council of Ministries with the view to enhance security of supply and competition in the electricity and gas markets, ensure an efficient separation of the owners of transmission systems and transmission system operators from those undertakings using transmission systems in order to import and supply gas and protect customers, particularly, vulnerable ones. The 2009 Community Law foresees moreover that within 24 months from the entry into force of the legislative decrees that the Government is delegated to approve in order to implement the Directives, the same Government can adopt, following procedures defined by the same law, integrations and corrections to the same legislative decrees (art. 5).

Among the new measures introduced by Legislative Decree no. 93/11 the most relevant one for the electricity sector concern: (i) the definition of a national energy policy; (ii) public service obligations and consumer protection measures and (iii) duties and powers of the Regulator. It should be noted that the unbundling provisions between transport system and operators of electricity introduced by Directive 72/2009/EC, had already been implemented in Italy by Legislative Decree no. 79 of 16 March 1999, (known as the *Bersani* decree). The Italian legislator had therefore confirmed a consolidated unbundling model by reaffirming the attribution of the management of the network to Terna under a concession regime and forbid Terna to directly or indirectly manage, also on a temporary basis, infrastructures and production plants of electricity.

- (i) With regard to the definition of the national energy policy, Legislative Decree no. 93/11 confers to the Ministry of Economic Development (“MED”) the competence to provide guidance and legislate on this subject in order to guarantee security of supply. As a consequence, Legislative Decree no. 93/11 establishes (art. 1) that the MED shall elaborate ten years development scenarios in relation to electricity and gas markets and that (art. 3) priority plants and infrastructures will have to be identified with a decree of the President of the Council of Ministers. Moreover, the decree foresees that also transmission system operators (TSOs) will have to be involved in the elaboration and implementation of the national energy strategy as they are required to develop the 10 years network development plans. The main innovation introduced by the decree in this respect is that decisions relating to the strengthening and modernization of transmission systems is not taken exclusively by TSOs but will also depend on the global needs of the national and European energy systems. The legislative decree attributes to Regulator the duty to provide an analysis of the investment plans of the transport system operators in view of their conformity with the community network development plan.

- (ii) With regard to public service obligations and consumer protection measures, Legislative Decree no. 93/11 provides for the electricity sector that domestic customers and small industrial customers (with less than 50 employees and with less than 10 million euro of turnover) that do not choose a supplier in the free market are supplied under the standard offer regime.
- (iii) Finally, the legislative decree better defines the duties and powers of the Regulator, consisting, *inter alia*, of ensuring the implementation of consumer protection measures by suppliers and of the rules relating to the obligations of TSOs, distribution system operators, electricity and gas undertakings pursuant to Directives 2009/72/EC, 2009/73/EC and other relevant EU law provisions and certifying the national TSOs. The legislative decree also confirms the attribution to the Regulator of the power to sanction any infringement of the binding decisions of ACER and of the Regulator itself.

Competences and powers of the Regulator according to Legislative Decree no. 93/11

Directives 72/2011/EC and 73/2011/EC has set for energy regulators specific competences and powers which have largely already been attributed to AEEG by its instituting Law no. 481/1995. These have more recently been complemented by some measures of Legislative Decree no. 93/11. The main ones are illustrated in Table 3.2 below:

ARTICLES OF DIRECTIVES	CONTENT	COMMENT
Art. 37(12) Art. 41(12)	<i>Any party who is affected and who has a right to complain about a decision on methodologies taken pursuant to this Article or, where the regulatory authority has a duty to consult, concerning the proposed tariffs or methodologies, may, at the latest within two months, or a shorter time period as provided by Member States, following publication of the decision or proposal for a decision, submit a complaint for review. Such a complaint shall not have suspension effect.</i>	Art. 44 of Legislative Decree no. 93/11 implements the European Community measures regarding complaints. The Italian legal design provides two different procedures. The first one laid down by par. 1 and 3 attributes the Regulator the power to adopt decisions regarding complaints against transmission, transport, distribution, storage and LNG operators. The second one ruled by par. 4, attributes the Regulator to manage complaints against retail and distribution companies of electricity and gas also in collaboration with the Single Buyer (<i>Acquirente Unico</i>).
Art. 37(1)(b) Art. 41(1)(b)	<i>The regulatory authority shall have the following duties: b) ensuring compliance of transmission and distribution system operators and, where relevant, system owners, as well as of any electricity</i>	Art. 43, par. 2, c), of Legislative Decree no. 93/11 implement the provisions as follows: «2. <i>The Authority for electricity and gas guarantees:...c) the implementation by transmission, transport and distribution system operators, and if</i>

	<p><i>undertakings, with their obligations under this Directive and other relevant Community legislation, including as regards cross-border issues;</i></p> <p>....</p>	<p><i>needed by their systems and by any electricity and gas company of the obligations deriving from Directives 2009/72/EC and 2009/73/EC, from the Regulations 713/2009/EC, 714/2009/EC and 715/2009/EC, and from any other European Community law including those regarding cross—border issues».</i></p>
<p>Art. 37(1)(d)</p> <p>Art. 41(1)(d)</p>	<p><i>The regulatory authority shall have the following duties:</i></p> <p>....</p> <p><i>d) complying with, and implementing, any relevant legally binding decisions of the Agency and of the Commission;</i></p> <p>....</p>	<p>Par. 4 and 5 of art. 46 of Legislative Decree no. 93/11 implementing the Third package provisions refer to a “cooperation” between the Regulator, ACER and the EC but do not mention the implementation of legal decisions of ACER and the EC. However art. 45, par. 2 provides that the Regulator can impose sanctions in case legal decisions of ACER, the Regulator and EU law are not implemented by stakeholders.</p>
<p>Art. 37(1)(q)</p> <p>Art. 41(1)(r)</p>	<p><i>The regulatory authority shall have the following duties:</i></p> <p>....</p> <p><i>q) and r) monitoring the implementation of rules relating to the roles and responsibilities of transmission system operators, distribution system operators, suppliers and customers and other market parties pursuant to Regulation (EC) No 714(715)/2009;</i></p> <p>...</p>	<p>Art. 43, par 3, b) of Legislative Decree no. 93/11 provides that :</p> <p>«<i>The Authority of electricity and gas monitors: ...b) the application of measures ruling functions and responsibilities of transport, transmission, distribution, storage and LNG system operators, retailers, customers and all other entity participating to the market according to the EC Regulation no. 714/2009 and EC Regulation no. 715. ».</i></p>
<p>Art. 37(4)(b)</p> <p>Art. 41(4)(b)</p>	<p><i>Member States shall ensure that regulatory authorities are granted the powers enabling them to carry out the duties referred to in paragraphs 1, 3 and 6 in an efficient and expeditious manner. For this purpose, the regulatory authority shall have at least the following powers:</i></p> <p>...</p> <p><i>b) to carry out investigations into the functioning of the electricity markets, and to decide upon and impose any necessary and proportionate measures to promote effective competition and ensure the proper functioning of the market. Where appropriate, the regulatory authority shall also have the power to cooperate with the national competition authority and the financial market regulators or the Commission in conducting an investigation relating to competition law;</i></p> <p>...</p>	<p>Legislative decree no. 93/11 complies with the referred provisions mainly through art. 43, par. 5, c) referring to the powers to carry out investigations in order to ensure efficient implementation of market regulations and promote competition. These complement the powers already attributed by Law no. 481/95 (art. 2, par. 12, g).</p> <p>The collaboration between the Regulator and the National Antitrust Authority is provided for by art. 46, par. 1 and 2.</p>
<p>Art. 35(5)(a)</p> <p>Art.</p>	<p><i>In order to protect the independence of the regulatory authority, Member States shall in particular ensure that:</i></p> <p>...</p> <p><i>a) the regulatory authority can take autonomous</i></p>	<p>Law no. 481/95 established the Italian Regulator as a fully independent institution, with autonomous decisional, organizational and budgetary powers.</p>

39(5)(a)	<i>decisions, independently from any political body, and has separate annual budget allocations, with autonomy in the implementation of the allocated budget, and adequate human and financial resources to carry out its duties;</i>	Art. 43 and 46 of Legislative Decree 93/11, adapts the general objectives, functions and powers of the Regulator to the provisions of 72 and 73 2009 EC Directives.
Art. 37(4)(c) Art. 41(4)(c)	<i>Member States shall ensure that regulatory authorities are granted the powers enabling them to carry out the duties referred to in paragraphs 1, 3 and 6 in an efficient and expeditious manner. For this purpose, the regulatory authority shall have at least the following powers: ... c) to require any information from electricity undertakings relevant for the fulfillment of its tasks, including the justification for any refusal to grant third-party access, and any information on measures necessary to reinforce the network; ...</i>	The Regulator's instituting Law no. 481/95 (art. 2, par. 20, a), provides to it the general power to ask utilities information and documents related to their activity. Legislative Decree no. 93/11, art. 5, provides that all suppliers of electricity and gas shall keep data on all contractual supply transaction available on request by Regulator, the National Antitrust Authority and the Ministry of Economic Development.
Art 37(4)(d) Art. 41(4)(d) Art. 41(5)(a)	<i>Member States shall ensure that regulatory authorities are granted the powers enabling them to carry out the duties referred to in paragraphs 1, 3 and 6 in an efficient and expeditious manner. For this purpose, the regulatory authority shall have at least the following powers: ... to impose effective, proportionate and dissuasive penalties on electricity undertakings not complying with their obligations under this Directive or any relevant legally binding decisions of the regulatory authority or of the Agency, or to propose that a competent court impose such penalties. This shall include the power to impose or propose the imposition of penalties of up to 10 % of the annual turnover of the transmission system operator on the transmission system operator or of up to 10 % of the annual turnover of the vertically integrated undertaking on the vertically integrated undertaking, as the case may be, for non-compliance with their respective obligations pursuant to this Directive; ...</i>	Art. 45 of Legislative Decree no. 93/11 rules the Regulator's sanctioning powers complementing those already set by its instituting Law no. 481/95. The provisions of art. 45 of Legislative Decree no. 93/11 set also minimum and maximum level of sanctions (not explicitly mentioned in the 2009 Directives and provided that sanctions shall in any case not be higher than the 10% of turnover of the vertically integrated company of the year before the sanctioning procedure is started.
Art. 37(5)(c) Art. 41(5)(a)	<i>In addition to the duties and powers conferred on it under paragraphs 1 and 4 of this Article, when a transmission system operator has been designated in accordance with Chapter V, the regulatory authority shall be granted at least the following duties and powers: a) and c) to issue penalties in accordance with paragraph 4. d) for discriminatory behavior in favor of the vertically integrated undertaking;</i>	Art. 44, par. 1 of Legislative Decree no. 93/11 provides that the Regulator shall adopt decisions on the complaints against a transport, transmission, storage, LNG or distribution system operator referring to the obligations set by the internal energy market Directives.

Art. 37(4)(e) Art. 41(4)(e)	<i>Member States shall ensure that regulatory authorities are granted the powers enabling them to carry out the duties referred to in paragraphs 1, 3 and 6 in an efficient and expeditious manner. For this purpose, the regulatory authority shall have at least the following powers:</i> ... <i>e) appropriate rights of investigations and relevant powers of instructions for dispute settlement under paragraphs 11 and 12.</i> ...	Partly implemented by art. 2, par. 12, m) of Law no. 481/95, that sets the evaluation of user's and consumer's complaints among the powers of the Regulator.
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3.1.6 Dispute settlement

As illustrated in Table 3.2 Legislative Decree no. 93/11 (art. 44, par. 1) provides that the Regulator shall decide on complaints submitted by stakeholders against a TSO, a storage or LNG operator in compliance of the obligations set by Directives 72 and 73 of 2009 (art. 37. par. 5. c and 41. par. 5. a). Together with the powers already attributed to the Regulator by its instituting Law no. 481/95 (art. 2. par. 12. m) provisions of art. 37 par. 4 (e) and 41. par. 4 (e) of Directives 72 and 73 of 2009 should considered to be implemented into national law.

Article 44 of Legislative Decree no. 93/11, ruling the competences of the Regulator in this area, implements art. 37, par. 11 and 41, par. 11 of Directives 72 and 73 of 2009 and refers in particular to:

- complaints against a TSO, storage, LNG operator and DSO referring to the obligations deriving from the implementation of the EC directives for the internal markets of electricity and gas (par. 1 and 2);
- complaints of end users/customers against retail and distribution companies of electricity and gas (par. 4)

Regarding the first bullet point, Legislative Decree no. 93/11 specifies that the Regulator shall, according also to the provisions of its instituting Law no. 481/95, set procedures for alternative dispute resolution and settlement of complaints between users and service providers that can be submitted in front of the out of court and arbitration commissions to be created at the premises of the Chamber of commerce. While waiting for all the necessary inter-institutional agreements to be completed in order to start the above-mentioned procedures, the Regulator decided ensure since 2011 the management of such complaints by instituting an ad hoc office dealing with out of court settlement of controversies. In parallel, with Resolution 2012 57/2012³⁶, the Regulator started its activities for the definition of new procedures for consumer's controversies settlement with the exception of those from customers and *prosumer* (i.e., consumers & producers, within certain limits). In order to rationalize the existing rulings for complaint settlement, the same new discipline will be adapted in order to settle also complaints between producers and network operators regarding the application for the connection of RES plants.

³⁶ Resolution of 01 March 2012.

Referring to the second bullet the Regulator ensures an efficient treatment of customer's complaints with the assistance of the Single Buyer (*Acquirente Unico*) and monitors that the compliance of consumer protection principles of Annex 1 of the Directives (see also point 3.2 Consumer protection). The Regulator is also currently instituting a specific regulation for the out of court settlement and alternative dispute resolution regulation to be instituted at the premises of the Single Buyer (*Acquirente Unico*³⁷).

3.2 Promotion of competition

3.2.1 Wholesale markets

According to the initial (provisional) data released by the national network operator, the demand for electricity rose by 0.6% in 2011 relative to the previous year. The demand was equal to 332.3 TWh, more specifically, having increased by nearly 2 TWh in comparison to 2010. The gross domestic product (GDP) registered an increase of 0.4% during the same period. In relation to the period prior to the crisis, the demand during 2011 was much lower, in any case, by about 7 TWh with respect to the amount consumed in 2008. The peak power demand was highest in the month of July, when it reached 56.6 GW. In 2011, 86.3% of the overall demand was represented by national production available for consumption, more or less reconfirming the proportion registered the previous year (86.6%). The remaining portion of the demand was satisfied through net imports of 45.6 TWh from abroad, representing a 3.3% increase over the previous year and an increase in the amount of energy received from abroad.

Table 3.3 Aggregate balance of electric power in Italy for 2011

GWh

	2010	2011 ^(A)	VARIAT. %
Gross production	302,062	300,389	-0.6%
Ancillary services	11,314	11,223	-0.8%
Net production	290,748	289,166	-0.5%
Received from foreign suppliers	45,987	47,349	3.0%
Sold to foreign customers	1,827	1,723	-5.7%
Designated for pumping	4,454	2,518	-43.5%
Available for consumption	330,455	332,274	0.6%
Leakage	20,570	20,574	0.0%
Consumption as a net of leakage	309,884	311,700	0.6%

(C) Provisional data.

Source: AEEG calculations on Terna data.

³⁷ *Acquirente Unico SpA* is the undertaking belonging to the *Gestore Servizi Energetici* (GSE SpA) group which is entrusted by law with the task to grant the supply of electricity to small customers (normally residences and small undertakings): the task assigned to *Acquirente Unico* consists of purchasing electricity at the most favorable conditions on the market and to provide it to distributors and small retailers in order to supply small customers which belong to standard offer market/regime, i.e., customers which do not purchase electricity on the free market (for a definition of standard offer market/regime see infra).

In 2011, the gross production of electricity was equal to roughly 300.3 TWh, which was down by 0.6% in comparison to 2010. Disaggregating the data by source reveals a decrease in thermal power plant generation (-3.7%), which fell from approximately 222 TWh in 2010 down to 214 TWh in 2011 (Table 3.1). The generation of electricity from natural gas registered a 7.0% contraction relative to the level reached one year earlier, while a significant increase was registered in the amount of electricity generated from coal (+11.1%). Generation from petroleum products (-9.5%) in 2011 continued the downward trend that was witnessed the previous year (37.6%).

Generation from renewable energy resources increased by 9.4% in 2011 as compared to 2010. This particular result was achieved in spite of the decline in hydroelectric generation from natural inputs (-9.3%) and can be attributed to an exponential increase in photovoltaic generation (+463%) (in addition to the sharp increases registered in biomass and waste (+19.9%), wind-power (+11.1%) and geothermal (+5.2%) generation), which rose to approximately 10.7 TWh as compared to the 1.9 TWh of the previous year.

Based on Terna's preliminary operating data, the balance of trade for 2011 amounted to 45,626 GWh, representing the difference between imports (equal to 47,349 GWh, or +3.0% over the figure for 2010) and exports (equal to 1,723 GWh, or -5.7% compared to 2010). In 2011, this guaranteed coverage for 13.7% of the demand. The increase in imports in 2011 was tied to a sharp increase in the amount of energy coming in from France (+2,646 GWh) and Switzerland (+2,391 GWh), which was partially counterbalanced by a decrease in imports from Slovenia (-2,717). In regard to exports, most of the reduction in energy flow concerned the exchanges with France (-161 GWh).

In terms of net electricity generated, the market share of the Enel group continued the downward trend already witnessed in recent years, falling from 27.5% in 2010 to 26% in 2011. Edison's market share also fell significantly (8.5% in 2011 as compared to 10.8% in 2010), as did - although to a lesser extent - the market shares of Eni, E.On and Edipower. The larger market space freed up by the main producers was to the benefit of GDF Suez, whose market share jumped from 0.3% in 2010 to 3.1% in 2011, as well as smaller-sized operators. It should be noted that following the dissolution of the joint venture between Acea and GDF SUEZ Energia Italia during the course of the 2011 business year, the disproportionate splitting up of Acea Electrabel led the latter of these two companies to acquire 100% of this particular company, now known as GDF Suez Produzione, which currently owns, directly or indirectly, three combined-cycle thermal power generation facilities. The wind-power facilities owned by Acea Electrabel Produzione were also turned over to GDF Suez Energia Italia, which also acquired and absorbed the entire Eblacea company, thus increasing its share in Tirreno Power to 50%.

A calculation of the Herfindahl-Hirschman index (HHI), which concerns net generation, reveals a further increase of concentration in the market. The index for 2011 was 951, while the index for 2010 was 1,087.

Table 3.4 Development of the wholesale market

	DEMAND ^(A) (TWh)	PEAK DEMAND (GW)	NET INSTALLED CAPACITY (GW)	NO. COMPANIES WITH > 5% SHARE OF NET GENERATION	% SHARE IN NET GENERATION BY 3 LARGEST COMPANIES
2001	304.8	52.0	76.2	4	70.7
2002	310.7	52.6	76,6	3	66.7
2003	320.7	53.4	78,2	4	65.9

2004	325.4	53.6	81,5	5	64.4
2005	330.4	55.0	85,5	5	59.4
2006	337.5	55.6	89,8	5	57.1
2007	339.9	56.8	93,6	5	54.7
2008	339.5	55.3	98,6	5	52.0
2009	320.3	51.9	101.4	5	50.6
2010	326.2	56.4	106.9	5	48.2
2011	332.3	56.5	118.4	4	44.0

(A) Net of energy designated for pumping and gross of network leakages.

Source: AEEG calculations on Terna and operators data.

The maximum net generation capacity installed as of 31 December 2011 was equal to 118.4 GW, while the net capacity available (at least 50% of the time) was equal to 95 GW (Table 3.4).

With respect to net installed capacity, four different operators have a market share greater than 5%: Enel (32.6%), Edipower (6.9%), Edison (6.4%) and Eni (5.3%). The percentage of capacity attributable to the top three operators is 45.8%. The HHI index for net installed capacity shows a decreased market concentration in comparison to 2010 - the value was 1,243 for 2011 and 1,596 for the previous year.

With respect to net available capacity (at least 50% of the time), five different operators have a market share higher than 5%: Enel (37.9%), Edison (7.9%), Edipower (7.6%), Eni (6.1%) and E.On (5.4%). Based on this data, the percentage of capacity attributable to the top three operators is 53.4%. The HHI index for net capacity available for 2011 was 1,673, which was down in comparison to 2009 (1,906).

The Structure of the Electricity Market

The energy market operator (GME) manages the energy markets, which are organized into the spot markets (MPE) (including the day-ahead market (MGP), the infra-day market (MI) and the market for dispatching services (MSD) and the forward market for electricity (MTE) with an obligation to deliver electricity. The operator also manages the platform for the physical delivery of the financial contracts closed on the IDEX, a segment of the Italian Exchange's derivatives market for trading futures contracts for energy.

The MGP is the venue for contracting energy through supply offers and demand bids, and takes place in a single implicit auction session for the following day, whereas the MI takes place between the closure of the MGP and the opening of the MSD, allowing operators to update their supply offers and demand bids as well as their commercial positions in relation to trading on the MGP. The MI was established by Law no. 2 of 28 January 2009, and was launched in November 2009 to replace the Adjustment Market (MA). Since January 2011, this particular market has been organized into four sessions, with different closing times arranged in series.

The MSD is the venue through which Terna supplies the resources needed to manage and monitor the system, resolve intra-zonal congestions, procure reserve capacity and provide real-time balancing. The MSD is divided into a scheduling phase (MSD ex-ante) and a Balancing Market (MB). The MSD ex-ante and the MB take place in multiple sessions in accordance with the rules and regulations on dispatching. The MSD ex-ante is further subdivided into three programming sub-phases, while the MB is articulated into five sessions in which Terna selects bids for time slots on the same day as the related session.

The MTE is the venue for trading futures contracts with compulsory injection/delivery and withdrawal of energy. The trading is ongoing and involves two different types of contracts, baseload and peakload, that can be traded with monthly, quarterly and annual terms. In November 2008, the Italian Exchange launched the Italian market for electricity derivatives (IDEX), which is dedicated to the trading of derivative financial instruments based on average purchase price (National Single Price – *prezzo unico nazionale*, or PUN). In implementation of the Ministry of Economic Development decree of 29 April 2009, the GME signed a collaboration agreement with the Italian Exchange to enable operators who participate in both markets to use physical delivery to regulate financial contracts concluded on the IDEX.

Finally, operators may not only buy and sell energy on the GME's organized market, but also by stipulating sales contracts concluded outside of the system of offers. Since May 2007, the Forward Electricity Account Trading Platform (PCE) entered into effect as a platform to be used for registering bilateral contracts.

In terms of market participation in 2011, the number of operators registered in the GME electricity markets declined significantly in relation to the previous year - from 207 in 2010 to 192 in 2011. This particular piece of data, however, does not translate into a decrease in the number of active operators in the market, which instead grew in the infra-day markets (+22 operators) partly as a consequence the introduction of the MI3 and MI4 sessions. This increase was also noted on the MGP, where 138 (+7 operators) operators were active. Participation also grew on the MSD (with 28 operators, +5), on the Forward Electricity Account Trading Platform (PCE) and on the MTE (+7).

Exchange Trading and Bilateral Contracts

In 2011, there was a significant decrease in the volume and share of energy sold on the Exchange as compared to the total amount traded. The energy exchanged on the MGP by means of bilateral contracts amounted to 131.2 TWh, about 22 TWh more than the previous year and representing 42.2% (as compared to 37.4% in 2010) of total amount of energy exchanged.

Table 3.5 Electricity market

TWh

YEAR	Total	TRADING ON THE MGP	
		On the Exchange	Bilateral
2002	-	-	-
2003	-	-	-
2004	231.6	67.3	164.3
2005	323.2	203.0	120.2
2006	329.8	196.5	133.3
2007	330.0	221.3	108.7
2008	337.0	232.6	104.3
2009	313.4	213.0	100.4
2010	318.6	199.5	119.1
2011	311.5	180.4	131.1

Source: AEEG calculations on GME data.

In terms of the decrease in volumes traded on the MGP, 2011 witnessed a reduction in purchases by non-institutional operators (-17 TWh), whose share fell by 30% and, to a lesser extent, by institutional operators, the *Gestore Servizi Energetici* ("GSE") and the Single Buyer (-2%).

Table 3.6 Bilateral contracts on the MGP in 2010

TWh

CONTRACTS	2010	2011
Bilateral contracts	119.1	131.1
National	129.1	148.8
<i>Single Buyer</i>	41.8	36.8
<i>Other operators</i>	87.3	112.0
Foreign	0.4	0.4
Balance for PCE programs ^(A)	-10.4	-18.1

(A) In each relevant period, it is the difference between the sum of the input schedules and the sum of the withdrawal schedules, as taken from the Electricity Account Platform and registered on the MGP. The balance of the PCE schedules is also equal to the algebraic sum of the physical balances of the electricity accounts (input and withdrawal).

Source: AEEG calculations on GME data.

Mergers in the electricity sector in 2011

In 2011, the volume of mergers and acquisitions that took place in Italy reflected a macroeconomic fundamentals still marked by uncertainty. The main corporate transactions in the electricity sector included:

- the separation agreements between Acea and GDF Suez Energia Italia. More specifically, following the dissolution of the joint venture between Acea and GDF SUEZ Energia Italia, the disproportionate splitting up of Acea Electrabel Produzione led the latter to acquire 100% of the company, now known as GDF Suez Produzione, which currently owns, directly or indirectly, three combined-cycle thermal power generation facilities. The wind-power facilities owned by Acea Electrabel Produzione were also turned over to GDF Suez Energia Italia, which also acquired and then absorbed the entire Eblacea company, thus increasing its share in Tirreno Power to 50%.
- Enel Produzione's transfer to SE Hydropower, in compliance with the agreements between Enel Produzione and Società Elettrica Altoatesina (Sel), of the corporate division dedicated to 7 hydroelectric plants related to minor hydroelectric branches serving the province of Bolzano: Fontana Bianca, Frena, Pontives, Predoi, Selva Gardena and Stegola;
- Sel AG's transfer of electricity production activities to Ecotherm;
- Fegrigoni Cartiere's absorption of the Cartiere Miliani Fabriano company;
- Consorzio Centrale Elettrica Bognanco's transfer of electricity production activities to Idreg Piemonte;
- the Municipality of Campo Tures's transfer of electricity production activities to the Azienda Elettrica Campo Tures;
- Acea Risorse and Impianti per l'Ambiente's absorption of Terni EN.A. and E.A.L.L.;
- E.On Climate&Renewables Italia's absorption of the Wind-power Park of Florinas;
- Enel Produzione's awarding of the San Floriano D'Egna (province of Bolzano) and Stramentizzo (province of Trento) power plants to SF Energy srl (in which Enel Produzione, Società Elettrica Altoatesina and Dolomiti Energia own equal participating shares of capital);

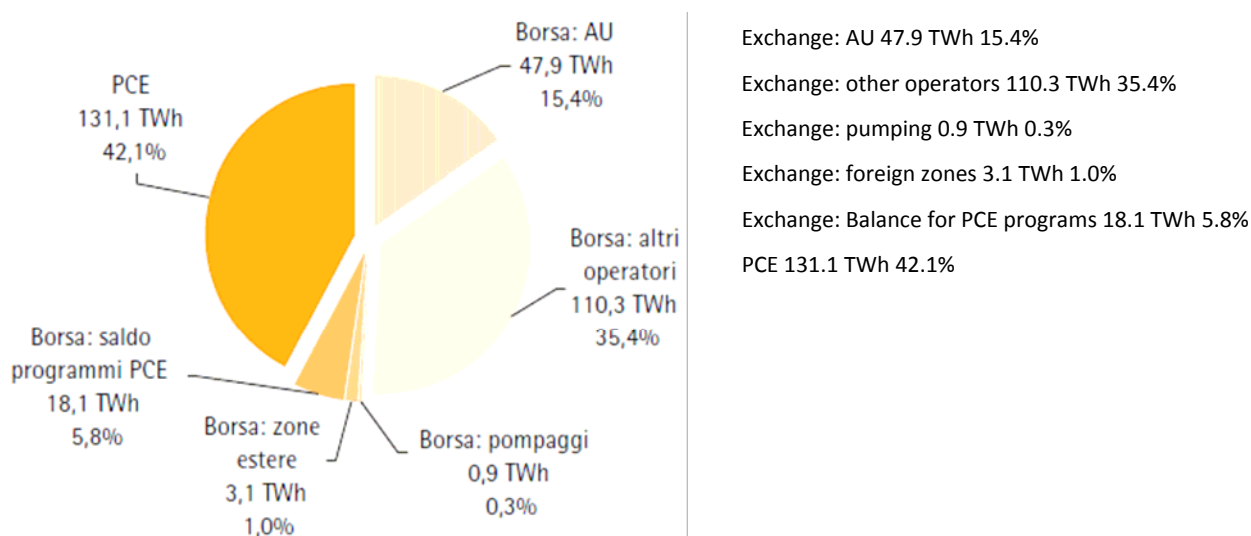
- Cofely Italia's absorption of Acerra Energia, Boffalora Energia and Nera Montoro Energia.

3.2.1.1 Price monitoring in the wholesale market

The day-ahead market

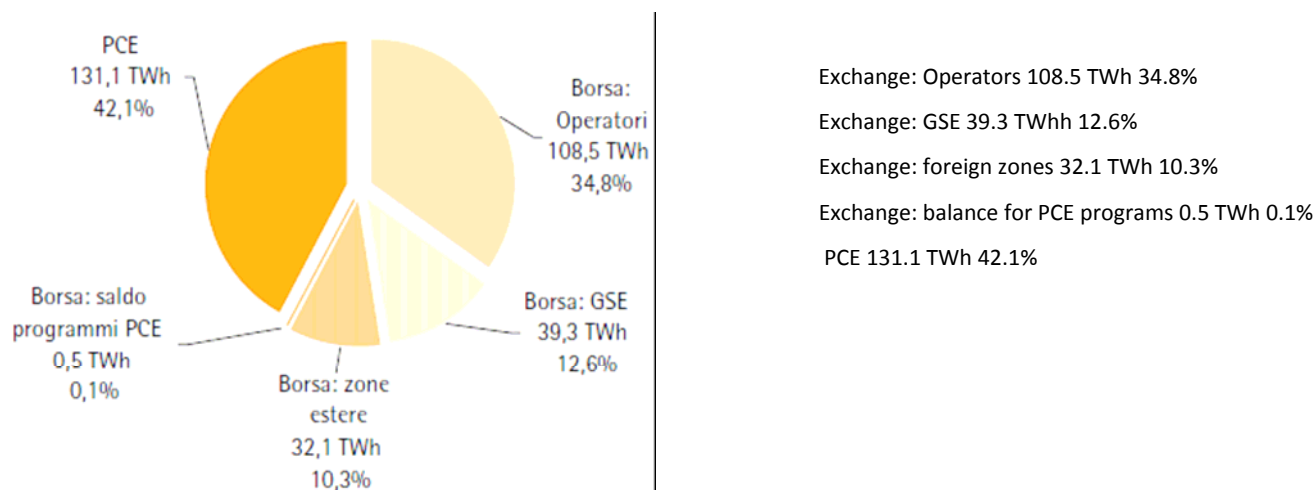
In 2011, the electricity demand of the Italian System was equal to 311.5 TWh, which was down by 2.2% compared to 2010. The national demand fell by 2.1%, mostly due to a sharp contraction in the volumes purchased in the Northern zone (-4.0%). Bucking the trend, the demand in Sardinia showed significant growth (+14.3%). Compared to 2010 levels, foreign demand also exhibited a net decline (-8.1%). Transactions on the Power Exchange added up to 180.3 TWh, down by 9.6% relative to the previous year, and market liquidity as 57.9%, or a just under five percentage points lower than 2010. The decrease in demand on the Exchange was largely due to a contraction in purchases by operators other than the Single Buyer, purchases which fell from 134.3 TWh to 110.3 TWh (-17.9%). The demand for bilateral contracts, in contrast, registered an increase of approximately 12 TWh (+10.1%) following on a sharp increase in the demand expressed by national operators other than the Single Buyer (+28.4%). The purchases made by the latter by means of bilateral contracts, on the other hand, exhibited a decline (-12.1%).

Figure 3.1 Percentage breakdown of the electricity demand in 2011



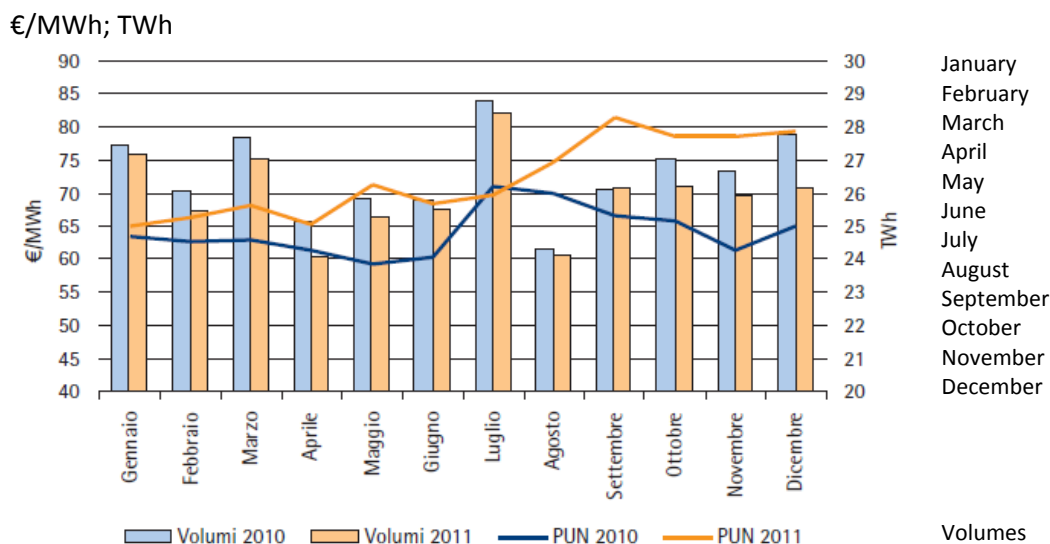
Source: AEEG calculations on GME data.

The trends in volumes of offers on the Exchange evidenced a 10.3% decrease in the offers of national operators in comparison to 2010, resulting in a total of 108.5 TWh for last year. There was also a sharp decline in the GSE's offers (-15.8%), which fell from 46.7 TWh in 2010 to 39.3 TWh in 2011. In reference to the Electricity Accounts Platform (PCE, see description below), a sharp increase in the national offer (+11.4%) was accompanied by a significant upturn in foreign supply (+4.0%), for a total of 17.8 TWh in 2011.

Figure 3.2 Percentage breakdown of the electricity supply in 2011

Source: AEEG calculations on GME data.

In 2011, Italy's Power Exchange registered an average energy purchase price of 72.23 €/MWh, representing a sharp increase relative to the previous year (+12.6%). This increase is accentuated in the off-peak hours³⁸, for which the average price increased by over 9 €/MWh in comparison to the previous year. The highest average monthly price exceeded 81 €/MWh and was registered in the month of September, while the monthly peak demand was marked in the month of July (28.4 TWh).

Figure 3.3 Trends in the National Single Price in 2011

Source: AEEG calculations on GME data.

The HHI index, which reflects energy sales, suggests the presence of wide variations in concentration levels at the zonal level. Macro-Zone North is the most competitive zone (with an average HHI of 1,205), while the most critical situation is found in Sicily (with an average HHI of 3,278) and Sardinia (with an average HHI of 3,627).

³⁸ According to the definition employed by the GME, off-peak hours include every hour of holidays and, on working days, the hours between 0:00 and 8:00 and between 20:00 and 24:00.

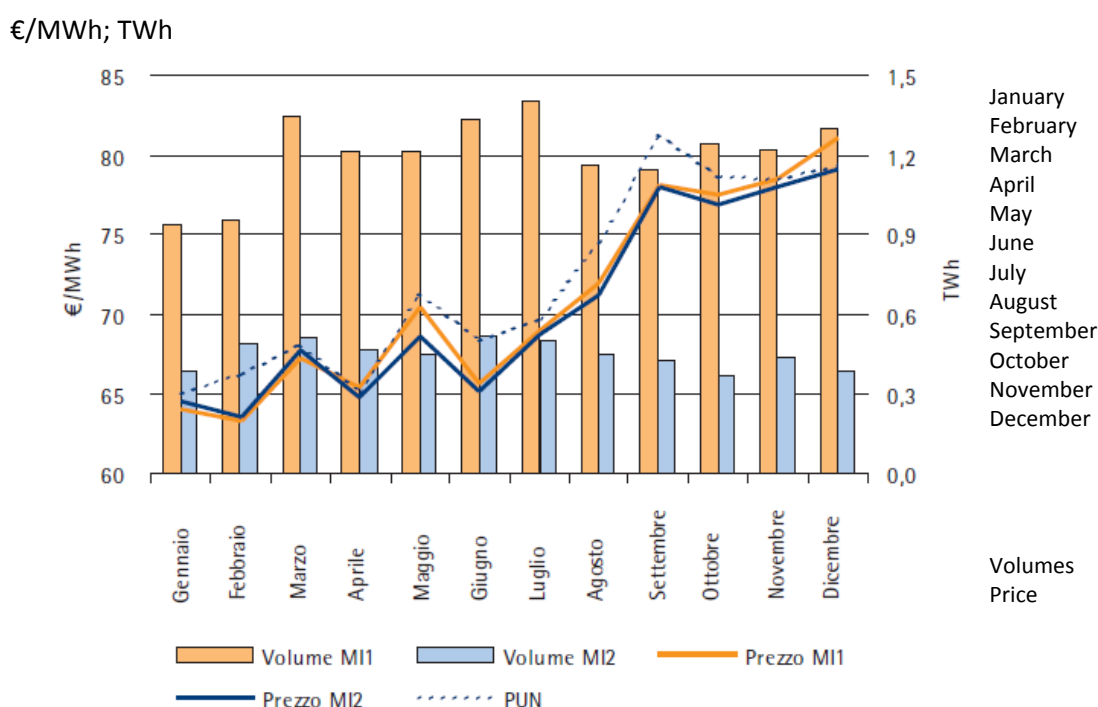
The marginal operator index, which reflects volumes,³⁹ shows a slight increase relative to 2010 at the Italian System level. While the percentage of total volumes exchanged with the first operator setting the price was, on average, about 22% in 2010, this specific share exceeded 23% in 2011. At the zonal level, the most critical conditions were registered in Sicily (with an indicator of about 65%, on average) and Sardinia (with an indicator of about 39%, on average).

The intra-day market

During 2011 in the MI1 and MI2, 14.5 and 5.4 TWh of energy was traded (respectively). The average purchase price in the MI1 was 71.22 €/MWh, while in the MI2 it was 70.17 €/MWh.

At the zonal level, the maximum average prices in the MI1 and the MI2 were registered in Sicily (90.16 €/MWh and 80.02 €/MWh, respectively), while the lowest were registered in the Southern zone (67.42 €/MWh and 66.76 €/MWh, respectively).

Figure 3.4 Trends in average prices and amounts on the MI in 2011



Source: AEEG calculations on GME data.

The Ancillary Services Market

In regard to the MSD, official data for 2011 are available for the ex ante market. The upward purchases were equal to 4.7 TWh, down by 32.1% in comparison to 2010. Purchases registered a peak in the month of January, when they reached 0.5 TWh of power. The downward amounts exchanged, on the other hand, amounted to 4.9 TWh, a sharp decline compared to the previous year (-67.1%).

³⁹ Index of single operators who set the sales price at least once. This is defined, for each operator, each time slot considered and each macro-zone, as the share of volumes they set the price for or, in other words, the ratio between the sum of the amounts sold (including bilateral contracts) in the geographic zones where they set the price in the macrozone and the sum of the total amounts sold in the macrozone.

The maximum point in terms of the volumes traded fell in the month of July (0.7 TWh). The rules for offer remuneration used on the MSD do not allow for the calculation of a summary price, in contrast to the other markets managed by the GME.

The Forward Electricity Account Trading Platform (PCE)

The PCE is a platform used to register the bilateral contracts, permitting the operators to register information concerning amount and duration of the delivery/injection for futures contracts a maximum of two months in advance of the physical delivery date. The PCE, more specifically, allows for five different types of contracts to be registered, four of which are standard (*base-load, peak-load, off-peak, weekend*) and one of which is non standard. Each operator, generally speaking, is the holder of one or more Energy Input Accounts (CEI) and one or more Energy Output Accounts (CEP). Any one of these can be used to register purchases or sales under the condition that the net balance resulting from the new registration is a net sale (for the former) or a net purchase (for the latter). The Account balance determines the amount of energy that may be delivered/withdrawn or sold/purchased on the MGP.

The bilateral contract transactions registered in 2011 involved 288.1 TWh (+22.6% compared to the previous year). Most of the contracts registered by the operators were non-standard (60.3%), the volumes for which grew by 32.3% in comparison to 2010. The growth of the volumes traded by means of standard contracts were more limited (+9.6%), mostly consisting of base-load (87.6 TWh) contracts with smaller proportions of peak-load (13.2 TWh) and off-peak contracts (8.9 TWh).

The Forward Markets for Energy

The MTE, which is run by the GME, was established in November 2008 to allow operators greater flexibility in the management of their energy portfolios. On the MTE, base-load and peak-load type contracts are traded with delivery periods of one month, one quarter or one year. After the trading period has expired, month-long delivery contracts are registered in corresponding transactions on the TCE, following the verification of their congruity in accordance with the platform's rules and regulations. A "cascading" mechanism is provided for quarter-long and year-long delivery contracts. In 2011, 8,228 contracts corresponding to 31.7 TWh of energy were traded, as compared to the 6.3 TWh traded in 2010. 28.0 TW of energy was traded by means of base-load contracts, and 3.7 TWh using peak-load contracts. Annual products clearly dominated the trading for both product types. The quotation was 74.42 €/MWh for base-load products traded in the course of 2011 with delivery in 2012, while the analogous quotation for *peak-load* products was equal to 84.18 €/MWh.

Table 3.7 Volumes traded on the Forward Market

MW

DURATION	BASE-LOAD PRODUCTS	PEAK-LOAD PRODUCTS
Monthly	752	125
Quarterly	4,214	532
Annual	23,007	3,004
TOTAL	28,007	3,660

Source: AEEG calculations on GME data.

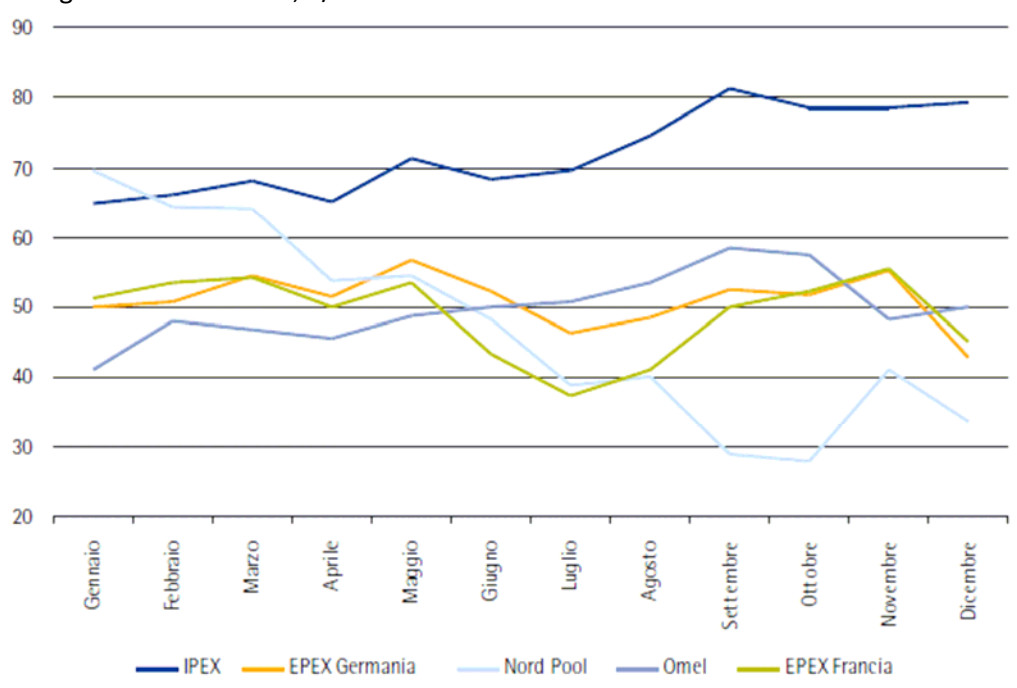
The extent of the Italian market's integration in the European context

In 2011, pricing trends on the main European electricity exchanges were highly diversified (Fig. 3.5). The average annual price, in fact, increased sharply on Omel (+34.9%) and considerably on EPEX Germany (+14.9%) and IPEX (+12.6%) as well, while the prices on Nordpool registered a significant decline (-11.3%) due to the unusually high levels reached in 2010 as a result of the climatic anomalies registered that year.

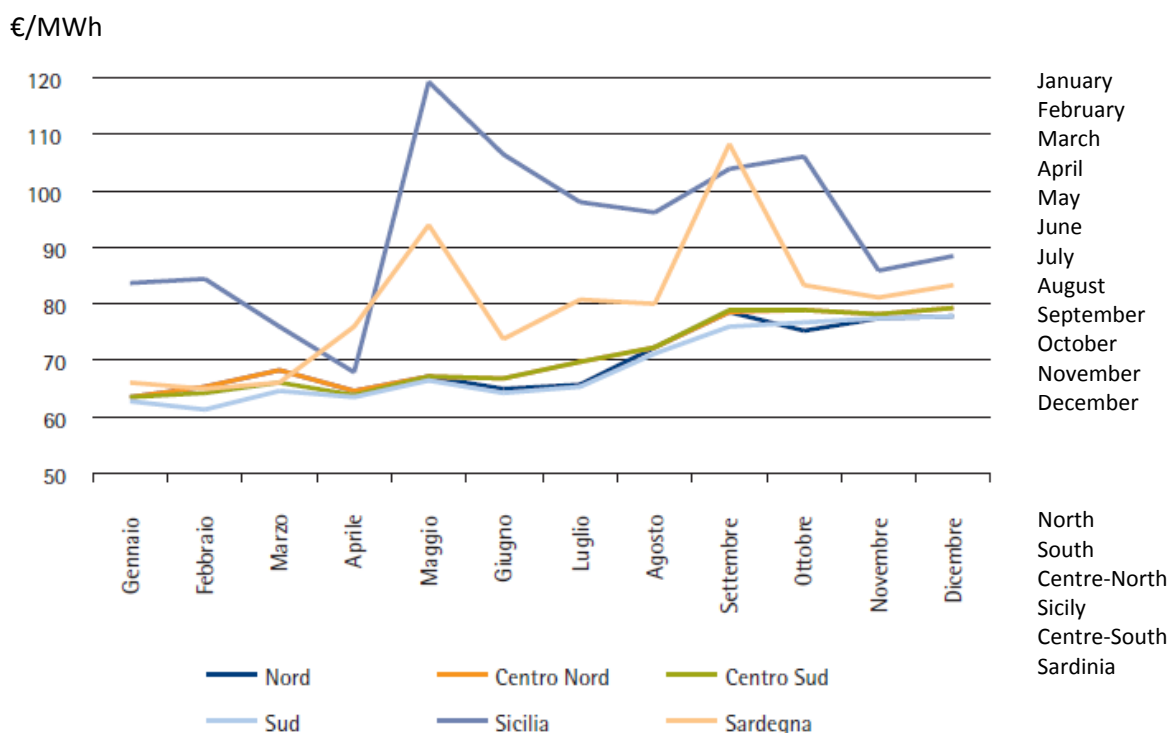
As a consequence of these dynamics, the latter Exchange registered a lower average price on an annual basis in 2011 (47.05 €/MWh), while the average price on the Italian Power Exchange continued to remain the highest, with a difference of over 25 €/MWh as compared to the Scandinavian Exchange and over 20 €/MWh higher than all of the other main Exchanges. In reference to 2010, the difference between the price on the Italian Exchange and the price on Omel, the lowest-priced Exchange, was over 27 €/MWh.

Figure 3.5 Trends in average monthly prices on the main European Exchanges in 2011

Average base-load values; €/MWh



Source: AEEG calculations on data from the European Power Exchanges.

Figure 3.6 Monthly trends in Italian zonal prices in 2011

Source: AEEG calculations on GME data.

At a national level a slight decrease (as compared to 2010) was registered in the spread between the maximum and minimum zonal prices in terms of average sales prices. The spread, more specifically, was equal to approximately 24 €/MWh, representing the difference between the average price registered in Sicily (93.11 €/MWh) and the price registered in the Southern zone (69.04 €/MWh). In 2010 the spread for the same two zone, was slightly less than 31 €/MWh. In 2011 the average price in the Northern zone was 70.18 €/MWh, which was slightly less than the average price in the Centre-North zone (77.17 €/MWh). An analysis of the variations in these trends on an annual basis reveals a generalized increase in the average prices for all zones, especially in the Southern zone (+17.0%). Sicily, alternatively, was the zone with the most modest increase in the sales prices (+3.8%).

3.2.1.2 Monitoring the level of transparency, including the compliance with transparency obligations and the level and effectiveness of market opening and competition

The Authority carries out monitoring of the spot and futures markets on a periodic basis (weekly or monthly) with support from the Monitoring Offices of GME and Terna.

Pursuant to Resolution ARG/elt 115/08⁴⁰, this activity hinges on the analysis of a weekly/monthly report that the above-mentioned Offices prepare using the methods defined by the Authority. This reporting serves for pointing out anomalies and triggering closer investigations in preparation for the possible opening of investigatory proceedings.

⁴⁰ Resolution of 05 August 2008.

In the report to the Parliamentary Commissions (PAS 6/11), published pursuant to art. 28, section 2 of Law no. 99/09, the Authority illustrated the functional and competitive conditions in the wholesale and retail markets for electricity. The report explains the main problems that characterize each phase of the electricity market along with recommendations that are designed to improve its functioning.

In the context of its market monitoring functions, pursuant to art. 11, section 1 of the Ministry of Economic Development decree of 29 April 2009, the Authority published a report reserved for the Ministry of Economic Development (PAS 4/11) that provides a closer examination of many of the issues addressed by the Authority in the report to the Parliamentary Commissions (PAS 6/11⁴¹). In specific, the above-mentioned report provides a quantitative analysis of market trends in the spot, futures and ancillary services markets based on the monitoring data from years 2009 and 2010.

In the recommendation paper on the state of the electricity and gas markets and related issues (PAS 21/11⁴²), conducted by the Authority pursuant to art. 3, section 10-ter of decree Law no. 185 of 29 November 2008, converted into Law no. 2/09, among other things the Authority indicated the main effects that generation by plants fuelled by non-programmable renewable energy resources have on the safe and secure management of the national electricity system.

3.2.2 The Retail Markets

Based on the provisional data published by Terna, total consumption (as a net of leakages) for 2011 was equal to 311.7 TWh, or slightly higher than the level registered for 2010 (+0.6%). Table 3.8 describes the breakdown of the latter by final sector of use.

Table 3.8 Breakdown of national consumption by final sector in 2011

TWh

PRODUCTION SECTOR	2010	2011 ^(A)	VARIAZ. %
Industry	138.4	139.4	0.7%
Services	96.2	97	0.8%
Residential	69.5	69.6	0.1%
Agriculture	5.61	5.60	0.2%
TOTAL	309.8	311.7	0.6%

(A) Provisional data.

Source: AEEG calculations on preliminary data from Terna.

Table 3.9 presents a breakdown of total sales and total number of customers (an approximation based on number of withdrawal points) by market type on the basis of data that the Authority gathered from electricity operators: producers, the operators of enhanced protection and safeguard services, wholesalers and retailers. The data gathered by the Authority represent a population that reflects 92% of the provisional data provided by the power grid operator ("Terna") with respect to final consumption.

⁴¹ Resolution of 03 February 2011.

⁴² Resolution of 06 October 2011.

Table 3.9 Sales in the retail market in 2011

As a net of self-consumption and leakage

	VOLUMES (GWh)	WITHDRAWAL PTS (thousands) ^(A)
Standard offer market	73,503	28,791
Safeguarded market	5,776	107
Free market	191,531	7,673
TOTAL MARKET	270,810	36,571

(A) Withdrawal points were calculated using the *pro die* criterion.

Source: Annual survey on regulated sectors.

The standard offer market is designed for domestic customers and small-sized enterprises connected at low voltage and whose sales contract was not stipulated in the free market. The protection is ensured by dedicated retail companies or by distributors with networks connected to fewer than 100,000 customers, and is based on standard terms and conditions and quality levels set by the Authority.

In 2011, sales to standard offer customers amounted to about 73.5 TWh for nearly 29 million withdrawal points, and was down by about 6% in comparison to 2010. About 67% of the volume was purchased by domestic customers (around 49 TWh), representing 83% (in terms of sheer numbers) of the total standard offer market (around 24 million).

For the period between 01 July 2010 and 31 December 2011, the Authority has established two-tiers standard prices to be gradually and automatically applied to consumers in the standard offer market and who are equipped with new reprogrammed electronic meters. In 2011, voluntary and mandatory two-tiers prices were applied to about 91% of domestic customers⁴³ in terms of withdrawal points.

With resolution ARG/elt 122/11⁴⁴, the Authority modified the pricing structure applied to such standard offer customers by offering:

- for non-domestic customers connected with power not higher than 16.5 kW, a changeover from PED⁴⁵ compensation differentiated by hourly band and by blocks of months to PED payments differentiated by hourly band and by month;
- for domestic customers, the provisions on the application of PED compensation differentiated by blocks of months are to be abolished from 01 January 2012.

The cited resolution also provided that the intervention to abolish the blocks entered into effect from 01 January 2012 in order to allow the customers to be informed of the matter. For domestic customers, the abolishment of the blocks of months thus translated into a changeover from transitory two-tier PED compensation to differentiated two-tier PED compensation by hourly bands.

About 88% of the domestic standard offer market is composed of residential customers, of which about 87% are represented by customers with up to 3 kW of power. The corresponding percentages for the withdrawal points are, instead, equal to 78% and 93% (respectively).

⁴³ Domestic customers include: (i) residential households with consumption of up to 3 kW, (ii) residential households with consumption of over 3 kW and (iii) non-residential households.

⁴⁴ Resolution of 15 September 2011.

⁴⁵ Payments to cover electricity dispatching and acquisition costs. The PED is expressed in hundredths of EU per kWh consumed.

Any customer who do not qualify for the standard offer regime but who finds itself without a free-market sales contract (even temporarily) qualify instead for the safeguard regime . Since 01 May 2008, the provision of this service has been auctioned to retail companies.

In 2011, the safeguarded market entailed about 107,000 withdrawal points, as calculated with the *pro die* criterion, that withdrew about 5.8 TWh of electricity. The latter piece of data reflects a contraction of about 6.5% as compared to the corresponding figure for 2010. About 6.3% of sales under the safeguard regime concerned public lighting, with the remainder involving other industrial/commercial uses that were mostly in the form of medium voltage connections (63% of total sales).

In 2011 the number retail companies operating in the free market settled at similar levels to those registered for 2010 confirming the steady upward trend observed over the last decade.

In a parallel, in 2011 there was a moderate increase in the average unit volume of retail sales (987 GWh opposed to 947 GWh in 2010), although the shares were markedly lower than in the year 2000 (1580 GWh). The data gathered by the Authority are subdivided by type of customer in Table 3.10. Roughly 90% of data in volume concerned what has been labelled "other uses" (other than domestic uses or public lighting) for around 2.6 million withdrawal points (34% of the free market total).

Table 3.10 Free market by type of customer in 2011

CUSTOMER TYPE	VOLUMES (GWh)	NUMBER OF WITHDRAWAL POINTS (thousands) ^(B)
LV	63,285	7,579
Domestic	12,561	4,824
Public lighting	5,113	210
Other uses	45,610	2,546
MV	89,324	93
Public lighting	382	1
Other uses	88,942	92
HV and EHV	38,922	1
Other uses	38,922	1
TOTAL – FREE MARKET	191,531	7,673

(B) Withdrawal points are calculated using the *pro die* criterion.

Source: Annual survey on regulated sectors.

The market shares of retailers operating the standard offer regime show a high level of concentration in spite of the approximately 140 operators operating within it. Enel Servizio Elettrico remains the main operator with an 85.2% market share, followed by Acea Energia (4.6%), A2A Energia (3.7%) and Iren Mercato (1.4%). No other operator has a share greater than 1%.

The free market is less concentrated than the standard offer one. Indeed, the cumulative share held by the three main operators (Enel, Edison and Eni) in 2011 was equal to 37.1%, of which 19.7% was represented by Enel's contribution as the main operator (as compared to 19% in 2010 and 27% in 2009). Edison's market share contracted, falling from 13% in 2010 to 11.4% in 2011.

In the retail market as a whole, two different corporate groups registered market shares greater than 5% in 2011: Enel (37.8%) and Edison (8.1%). These were followed by the Acea group with a market share of 4.5% and Eni, whose share of 4.2% consisted almost exclusively of sales to non-residential customers. The top ten operators (corporate groups) covered roughly three fourths of total sales. Table 3.11 presents a breakdown by voltage level.

Table 3.11 Retail market: market shares of the top three operators by voltage level

VOLTAGE LEVEL	NO. OPERATORS WITH 5% SHARE	TOP 3 OPERATORS COMBINED
Low voltage (domestic)	1	87%
Low voltage (non-domestic)	2	57%
Medium voltage	5	30%
High and extra-high voltage	7	40%
TOTAL	2	50%

Source: Annual survey on regulated sectors.

In 2011, the Authority carried on its pursuit of greater and deeper protection for consumers and users in the electricity and gas markets. In specific, the regulatory measures contributed to strengthening the effective capacity of final customers to make knowledgeable choices from among the different offers on the market and to reducing the types of informational asymmetries that, due to the specificity and characteristics of the services being offered, could prejudice the capacity of final customers to benefit from the opening of the market to competition.

3.2.2.1 Price monitoring in the retail market

According to provisional data already gathered by the Authority, (see Annual report on the state of services and activities, 2012, vol. I) the average free market price for the provision of electricity in 2011 was equal to 90.19 €/MWh. The calculation of this price was based exclusively on the energy, dispatching, grid leakage, imbalances and sales marketing cost components that free market operators were asked to provide.

The average price for sales in the standard offer market, on the other hand, was around 97.05 €/MWh. The calculation of this price was based exclusively on the purchase and dispatching of electric power, the sales marketing costs and the equalization components that operators in the standard offer market were asked to provide. The data refer to total offers on the market, and therefore include the free market offer prices, which have since been extensively differentiated on a variety of dimensions, and all customer types, in spite of variations in their consumption profiles. To illustrate the point, there are the offers at blocked prices as a function of the size of consumption, others provide for a *dual fuel* supply and/or complementary customer services.

In 2011, the average price for the provision of electricity on the free market can be subdivided into domestic customers and non-domestic customers, as illustrated respectively in Tables 3.12 and 3.13.

Table 3.12 Prices for domestic customers in the free market, by consumption class in 2011

CONSUMPTION CLASS	VOLUMES (GWh)	WITHDRAWAL POINTS ^(A)	PRICE
<1,000 kWh	331	586,175	137.15
1,000-1,800 kWh	1,368	949,346	109.46
1,800-2,500 kWh	2,231	1,033,459	107.96
2,500-3,500 kWh	3,578	1,206,103	106.83
3,500-5,000 kWh	3,101	756,901	107.85
5,000-15,000 kWh	1,843	287,366	108.78
>15,000 kWh	108	4,377	101.99
TOTAL - DOMESTIC CUSTOMERS	12,561	4,823,728	108.61

(A) Withdrawal points are calculated using the *pro die* criterion

Source: Annual survey on regulated sectors.

Table 3.13 Prices for non-residential customers in the free market, by consumption class in 2011

VOLTAGE LEVEL	VOLUMES (GWh)	WITHDRAWAL POINTS ^(A)	PRICE
Low voltage	50,724	2,755,579	103.64
Medium voltage	89,324	93,123	86.35
High and extra-high voltage	38,922	733	75.52
TOTAL - NON-DOMESTIC CUSTOMERS	178,970	2,849,435	88.89

(A) Withdrawal points were calculated using the *pro die* criterion.

Source: Annual survey on regulated sectors.

With respect to the monitoring of the application of two-tiers prices, art. 6-ter of the Unified Text on sales ("TIV") calls for each operator in the standard offer market to provide the Single Buyer with a quarterly communication (with data for each month of that quarter) about the PED compensation applied to each customer served and distinguishing between withdrawal points subjected to compensation that is differentiated by hourly bands versus points subjected to single-rate compensation. Operators in the standard offer market were also required to communicate which customers were subjected to the communication of consumption differentiated by band, month or block of months prior to the application of the PED compensation differentiated by bands. The Authority used this information for monitoring purposes during the first implementation phase of the two-tiers prices for domestic customers.

3.2.2.2 Monitoring of transparency levels, including compliance with transparency obligations, and the level and effectiveness of market opening and competition

Legislative Decree no. 93/11, which implements the Directives of the Third energy package, made it mandatory for the Authority to monitor the retail markets. The monitoring system for retail electricity markets was designed, in accordance with the provisions of Legislative Decree no. 93/11, enables the Authority to engage in regular and systematic monitoring of the functional

conditions of retail sales, including the degree of openness, the competitiveness and the transparency of the market as well as the level of participation of final customers and their degree of satisfaction (customer satisfaction). This system is necessary to the efficient and expeditious execution of the functions that were assigned to the Authority pursuant the Third energy package, such as the pro-competition regulation of public utilities and market, including the reform and revocation of the standard offer regime and the conditions applied to the standard offer customers.

In specific, Legislative Decree no. 93/11 provides for the Authority:

- To monitor, among other things, the degree and effectiveness of the retail market liberalization, the prices charged to domestic customers, including the pre-payment and down payment systems, the percentage of customers who switch suppliers, the percentage of disconnections, the costs for maintenance services and their execution;
- To conduct, in order to facilitate the effective performance of their duties (including monitoring), "surveys on the functioning of the electricity and natural gas markets, and to adopt and impose the appropriate measures, duly proportioned, as needed to promote effective competition and to ensure the best functioning of the markets," and which may include temporary asymmetrical regulatory measures.

With resolution ARG/com 151/11⁴⁶, the Authority approved the Unified text on the monitoring of retail electricity and gas markets (TIMR), which requires operators of the electricity retail market to provide the Authority with extensive data, every quarter, on: amounts sold, customers served, average prices applied to the final market, commercial offers, contractual renegotiations, switching, defaults (technical and economic), commercial quality, complaints and various items from the balance sheet. The data surveys will begin in 2012. Among other things, the TIMR will allow :

- the adoption of possible temporary asymmetrical measures;
- the publication of updates on the state of competition in the markets in order to guarantee all operators full transparency and information;
- the recommendation paper to the *Autorità garante della concorrenza e del mercato* (Italian Antitrust Authority) on issues under its competence, pursuant to art. 2, section 33 of Law no. 481/95;
- the further development of measures and actions aimed at enabling and protecting consumers and users.

The TIMR defines the list of operators, retailers and distributors, who meet the requirements in terms of number of points served, and identifies them as obliged to submit the basic information that the Authority needs in order to calculate the indicators⁴⁷, as well as a minimal set of market indicators and the associated calculation methods. The basic data survey activities are also defined (what data to collect, how often to collect them and the procedures to use) as well as the methods for publishing and updating the monitoring results for retail sales. The list of operators for 2012 is available on the Authority website. This are 116 operators nine of which pure distributors of

⁴⁶ Resolution of 03 November 2011

⁴⁷ The indicators are summary formulas that reflect the phenomena being subjected to *retail* monitoring.

electricity and three of which pure retailers of electricity. The collection of data for the period from 01 January 2012 onwards shall start by in April 2012.

The Authority has moreover continued to gather various data on the retail market, especially the information pertaining to:

- the evolution of the protection regimes for the final customers identified in Law no. 125 of 03 August 2007, and as confirmed by Legislative Decree no. 93/11 (standard offer and safeguarded categories markets);
- the data on the application of PED⁴⁸ compensation to customers in standard offer market;
- the information on the phenomenon of arrearage.

In particular the operators for the standard offer market should submit data to the Single Buyer on a monthly basis for purposes of monitoring, pursuant to art. 6-bis of the Unified Text on sales ("TIV"); the Authority publishes these data on its website every quarter.

The published data, aggregated by quarter and geographic zone, refer to the number of withdrawal points served in the standard offer market, the switch of customers to the free market (including the details of switches to companies with ties to the standard offer operator) and any switch from the free market to the standard offer market. Switches between different supply operators in the free market were not counted.

In reference, lastly, to the data on the phenomenon of arrearage, the information was collected pursuant to resolution ARG/elt 101/10⁴⁹. The data refer to trends in the suspensions that retail operators who serve more than 50,000 low voltage final customers are required to submit to the Authority via the Single Buyer.

Switching

The Survey on natural gas transport and distribution operators also posed several questions on *switching*, i.e., the number of customers⁵⁰ who changed suppliers during the 2011 calendar year.⁵¹ According to the data provided by the distributors (see the Annual report on the state of services and activities, 2012, vol. I), the overall rate of *switching*⁵² in 2011 was 22.9% in terms of the

⁴⁸ Payments to cover electricity dispatching and acquisition costs.

⁴⁹ Resolution of 30 June 2010.

⁵⁰ For ease of presentation, herein we refer generically to "customers." It should be noted, however, that for transport users this concerns the number of redelivery points, whereas for distribution users this concerns the number of metering units.

⁵¹ The way in which the questions were posed was designed to detect the phenomenon as it has been defined by the European Commission. This involved repeating the questionnaire that has already been used in past years to survey *switching* activities, which are understood as the number of times the supplier was changed in a given time period (one year), including:

- *re-switches*: when a customer makes a second (third, fourth...) switch within the same predefined time span;
- *switch-backs* - when a customer returns to their previous or first supplier;
- *switches* to one of the incumbents competitors, or vice versa.

When customers change their area of residence, the *switch* does not count unless they use a supplier other than the existing/*incumbent* in the new area. In addition, changes in the economic terms and conditions with the same supplier do not equate to a *switch*, not even when a new contract formula is selected or the change is from a protected price to a non-protected price when this involves the same supplier or one of its subsidiaries.

⁵² The data on *switching* were gathered in accordance with the European Commission's definition, i.e., switching activity is understood as the number of changes in supplier over a given time period (one year), including:

- *re-switches* - when a customer changes for a second (third, fourth...) time within the same predefined time span;
- *switch-backs* - when a customer returns to a previous or their first supplier;
- *switches* to one of the incumbent's competitors, or vice versa.

When a customer changes their area of residence, the *switch* does not count unless they engage a supplier other than the existing/*incumbent* in the new area. In addition, changes in the economic terms and conditions with the same supplier do not equate to a *switch*, not even when a new contract formula is selected or the change is from a protected price to a non-protected price when this involves the same supplier or one of its subsidiaries.

volume distributed and involved 7% of the electricity market customers (Table 3.14). About 5.8% of domestic customers and 11.7% of non-domestic customers switched suppliers. In terms of the volume withdrawn, the corresponding percentages climb to 7.1% and 27.3% (respectively). Among the non-domestic customers, the most dynamic segment in terms of withdrawal points concerned the medium voltage customers.

Table 3.14 Rates of switching for end-user customers in 2011

CUSTOMER TYPE	VOLUMES	WITHDRAWAL PTS
Residential	7.1%	5.8%
Non-residential:	27.3%	11.7%
of which:		
- low voltage	19.9%	11.4%
- medium voltage	30.6%	27.1%
- high and extra-high voltage	32.3%	22.6%
TOTAL	22.9%	7%

Source: Annual survey of regulated sectors.

Complaints and reports

The Energy Consumer Help-Desk, which is managed in collaboration with the Single Buyer as provided by resolution GOP 28/08⁵³ and by related regulations, carries out substantive, informational and fact-finding activities that are preparatory and instrumental to the evaluation of complaints, requests and reports presented by end-user customers and consumer associations. This service, which has been active since 01 December 2009, is carried out in conjunction with the Single Buyer. The Help-Desk proceeds by requesting any information needed from the operators and providing the customers, their representative associations and the operators with the instructions needed to solve the problems that are reported.

This system is supported by the provisions of art. 44, section 4 of Legislative Decree no. 93/11, which establishes that «*the Regulatory Authority for Electricity and Gas shall avail itself of the Single Buyer to ensure effective handling of any complaints [and conciliation procedures] by final customers concerning the retailers and distributors.*»

The Help-Desk fielded 38,361 different "cases" (complaints, requests for information and reports) over the course of 2011, representing a 29% increase in comparison to 2010. In the first quarter of 2012, the Help-Desk has already opened 10,458 new cases. This represents the number of case files that have been opened by the Help-Desk during this period - it is typical for multiple communications to be received for each individual case file. The Energy Consumer Help-Desk then proceeds to analyze these many complaints, requests and reports in order to determine which ones are well-founded enough to be forwarded to the Authority. In accordance with the cited regulation, in fact, the Energy Consumer Help-Desk only submits those complaints to the Authority Offices that are complete and that, upon closer examination, reflect a need for due assessment by the Authority for purposes of pursuing the actions under its competence.

The total number of communications submitted to the Energy Consumer Help-Desk between 01 January 2011 and 31 December 2011 was 37,895. Of these, 17,882 concerned the electricity sector

⁵³ Resolution of 14 May 2008.

(roughly 47.2% of the total). This represents a slight decrease in the number of communications (complaints, information requests, reports) registered in comparison to the previous year, when the electricity sector accounted for 49.3% of all of the communications fielded by the Energy Consumer Help-Desk. There were very minor changes in the relative proportions of complaints (92.2%), information requests (7.7%) and reports (0.1%).

In terms of subject-areas, the communications received in 2011 most often concerned the following: billing (22%), market (18%), bonuses (34%), contracts (12%) and connections (5%).

Table 3.15 Subject-areas of the communications fielded by the Energy Consumer Help-Desk

Year 2011

SUBJECT-AREAS	NUMBER	%
Electricity bonus	3,853	22
Market	3,307	18
Billing	3,853	22
Contracts	2,133	12
Connections/works	966	5
Technical quality	442	2
Prices and tariffs	623	3
Metering	267	1
Commercial quality	137	1
Not of competence	111	1
TOTAL CLASSIFIED	17,878	100
Non classified	4	
TOTAL CASES	17,882	

Source: AEEG calculations on data from the Energy Consumers Help-Desk.

In comparison to the previous year (2010), there was a noteworthy increase in the number of communications related to bonuses, a sizeable reduction in those concerning the "market" and more mild reductions in those concerning contracts and billing.

Most of the communications on "billing" concerned issues related to the correct quantification of consumption, the periodicity of billing and sending of bills. As for the "market," alternatively, most of these concerned the commercial code of conduct (for electricity sales) that was approved by the Authority and the regularity of switches in supplier. As refers to communications concerning the electricity bonuses subject-area, these were concentrated on failures to issue the bonus, problems concerning the application's validation by the system manager and the procedures for submitting applications to Municipalities, tax assistance centers and other institutions designated by the Municipalities. In regard to communications related to contracts, the main problems that arose concerned withdrawals and cancellations of supply, transfers and the disconnections. Finally, in reference to issues related to connections and works, most of the communications that were received concerned power variations and takeovers.

3.2.3 Recommendations on end-user standard offer prices

With PAS 11/11 act, the Authority provided the Parliament and Government with a recommendation paper on the standard offer market when the European Commission sent a complementary reasoned opinion to the Italian Republic for violation no. 2006/2057 of 06 April 2011.

The Authority's recommendation paper drew upon the Community's legal framework in order to frame the standard offer market properly. Art. 3, paragraph 2 of Directive 2009/72/EC of the European Parliament and Council of 13 July 2009, which repeals Directive 2003/54/EC, in fact, provides among other things that «in full respect for the Treaty's pertinent provisions and art. 86 in particular, Member States may, in their general economic interest, require companies in the electricity sector to take on public service obligations concerning security, including the security of the supply and its regularity, quality and pricing.» Art. 3, paragraph 3 of Directive 2009/72/EC then provides for «*Member States to provide that all civil customers and, as deemed necessary by the Member State, small-sized enterprises (with fewer than 50 employees and annual revenue or total balance of less than 10 million EU) shall benefit from universal service in their respective territory, i.e., the right to the supply of a specific quality of electricity at reasonable prices that are readily and clearly comparable, transparent and non-discriminatory.*»

In accordance with the cited provisions, decree Law no. 73 of 18 June 2007, as converted with Law no. 125 of 03 August 2007, introduced the standard offer and safeguarded markets into the Italian system beginning on 01 July 2007 (see paragraph 3.2).

The cited opinion the European Commission analyzed the standard offer market and protested a violation of art. 3 of Directive 2009/72/EC. The European Commission's analysis, which was framed within proceedings already begun in 2006, is founded on the developments subsequent to the 20 April 2010 ruling by the Court of Justice of the European Union in the case of Federutility vs. the Authority and concerning the Authority's intervention in the determination of the reference supply prices of natural gas to end-user consumers in the protected market. In specific, the Court of Justice identified three groups of criteria to use as the basis for determining whether the Authority's intervention was compatible with art. 3, paragraph 2, of Directive 2009/72/EC. In this sense: the intervention must be justified by the general economic interest and must respect the principle of proportionality, and the public service obligations must be clearly defined, transparent, non-discriminatory and verifiable. Moreover, equal access to consumers must be guaranteed for European Union companies operating in the electricity sector.

The European Commission indicated that the Italian intervention failed to respect the principle of proportionality established by the European court because in order to respect this principle, the intervention must be limited in time and the price setting methodology must not exceed of what is sufficient to guarantee the general economic interest. In the opinion of the Commission, more specifically, the principle of proportionality is violated in the Italian case due to the fact that the provisions intended to ensure the supply for the protected reference price regime:

- are unlimited on a temporary basis, nor do they specify any mechanism for periodic re-examination of the adopted measures;
- exceed the stated objectives by requiring distributing companies to supply themselves from the Single Buyer at reference prices;
- such reference prices appear also to be reflected in supply of end-user customers.

The Authority recommendation paper addressed various aspects of how the Court of Justice, by extending its conclusions from the cited ruling on natural gas issues to the electricity sector, seems to have failed to take into account unique aspects of the electricity sector. In specific, it fails to consider how Member States are also allowed to impose, in addition to public service obligations, obligations concerning the benefits of "universal service" for small-size customers. Universal service consists in the right to obtain a specific quality of electricity supply at reasonable prices that are readily and clearly comparable, transparent and non-discriminatory, as specified in art. 3, paragraph 3 of Directive 2009/72/EC.

The recommendation paper specifies the methods used by the Authority to define standard offer supply conditions for electricity. It explains, in particular, how market prices are not distorted by the methods used to determine standard offer prices in the free phases of the electricity supply chain (to cover the costs of supply and commercialization). The standard offer prices are, in fact, currently being determined by means of simple, non-discretionary calculations on the basis of the prices of the wholesale market and, as a consequence, do not distort the dynamics of the market. As for the portion concerning the costs of commercialization, since there is no market-based value to use for making this determination, the criterion employed reflects the costs entailed for a hypothetical new operator to enter the market segment of electricity sales to small-sized customers. The price applied to end-user customers in the standard offer market, therefore, is determined by the Authority with the aim of promoting competition by eliminating potential barriers to the free market and in a way that ensures equality of treatment for customers with the same characteristics regardless of the service being supplied. This is how equality of access is guaranteed to all consumers, as prescribed by Directive 2009/72/EC.

With the cited report PAS 11/11, the Authority also identified further interventions that could help extend the level of competition in the retail market. To assess the effectiveness of such measures, the Authority points out the need of stringent market monitoring that would provide regular and systematic verification of the functional conditions of sale, including the market's degree of openness, competitiveness and transparency. On this note, it should be pointed out that art. 35 of Legislative Decree no. 93/11 also acknowledges the importance of monitoring activities by providing, in this regard, for the Ministry of Economic Development to adjust the supply methods and forms under the protection regime based on the results of retail market monitoring to be conducted at least every two years.

On 27 February 2012, the Commission ruled to dismiss the proceedings.

3.2.4 Carry out investigations and imposing measures to promote effective competition

The Regulator's responsibilities and duties in this domain are illustrated in Table 3.2.

Two investigations were concluded by the Italian Regulator in 2011. The first one (resolution VIS 82/2011⁵⁴) was opened following reported irregularities in the dispatching, transmission, distribution, metering and safeguard services in the supply of electricity to the users of the internal electricity network of the chemical industrial area of Terni. The conclusions of the investigation, while excluding the existence of irregularities subject to sanctioning, evidenced potential anti-competitive behaviors on behalf of the public service providers involved (Enel Distribuzione, ASM Terni and Edison), that the Regulator could intimate to be halted. AEEG

⁵⁴ Resolution of 28 July 2011.

therefore imposed to the main supplier (Enel Distribuzione) to refund the consumers involved of the sums incorrectly billed to them, recognized to a safeguard operator (Hera Comm) the right to bill correctly for the services provided and confirmed the right for all users of the internal network of the Terni chemical industrial area to choose their own supplier in the free market. The second investigation concerned the rights of a utility to be refunded in order to compensate for the tariff provisions set in favor of the Abruzzo earthquake population. With ruling ARG/com 171/11⁵⁵ the Regulator acknowledged the utility concerned the right to access to the specific compensation funds.

Finally it is noteworthy that in 2011, the Authority has started, with Resolution VIS 76/11⁵⁶, an inquiry aimed at collecting further information on the issue of customer complaints for false or unrequested contracts described below (par. 2.3 on Consumer protection).

In 2011 the Authority moreover conducted activities aimed at controlling and monitoring the conditions of supply of public services (quality of service, security, network access, markets, tariffs, tariff integrations, production incentives,...) and to the identification of advantages and possible improvements of services supplied to customers. The Regulator might, according to the outcomes of investigations, adopt orders to halt behaviors that could prejudice users or orders to perform, sanctions or commitments to re-establish in cases of non-fulfillment or infringement of the law and claim back the amounts unduly received.

Out of the 134 inspections/requests of information carried out by the Authority in 2011 - in collaboration with other dedicated institutions and the *Guardia di Finanza* (Italian police dealing with financial crime, customs and excise) - aimed at the monitoring and enforcement of energy regulations, 58 referred to electricity companies and 2 to dual fuel companies. Incentives for the promotion of quality of service and of RES generation were the main objects of the inspections and requests of information to companies.

All the inspections conducted since 2006 both in electricity and gas allowed the Authority to take legal action to reclaim around 200 million euro of incentives unduly received by utilities. Of these 97.1 million euro have been recovered and already accounted in reduction to consumer bills, while for the remaining 34 million euro recovered from utilities legal actions are still pending.

3.3 Consumer protection

Compliance with Annex 1 of 72 and 73 2009 EC Directives (art. 37, par. 1, n)

Table 3.16 below describes the state of implementation of Annex 1 of 72 and 73 2009 Directives regarding consumer protection rights. It is evident from the table that summarizes the current legal framework for both the electricity and gas sectors, that it covers almost all the provisions of the Directives.

Table 3.16. Compliance with art. 37.1.n) and 41.1.o) of 72 and 73 2009 EC Directives

⁵⁵ Resolution of 01 December 2011.

⁵⁶ Resolution of 21 July 2011.

Articles that aim to protect consumers by attributing to the national regulator the duties to assure, also in collaboration with other national authorities, the implementation of Annex 1, Measure for consumer protection

PAR. 1		
<p><i>Customers shall have the right to a contract with their electricity service provider that specifies a amount of information/rights.</i></p> <p><i>Conditions shall be fair and well-known in advance. In any case, this information should be provided prior to the conclusion or confirmation of the contract. Where contracts are concluded through intermediaries, the information relating to the matters set out in this point shall also be provided prior to the conclusion of the contract;</i></p>	a)	<p>Such an obligation is provided for in Annex A of ruling ARG/com 104/10 (Commercial Code of Conduct), which defines in detail all the information that shall be provided to the customer before the conclusion of a new contract and all the relevant conditions that, set autonomously by the parties, shall be container into the contract. The Commercial Code of Conduct provides that contracts shall also be supplied to customers also in paper.</p> <p>Moreover the regulation of technical and commercial quality of distribution services (designed by the Regulator for both sectors since 2000 and modified each 4 years) and the rulings of the commercial quality of retail services of 2008 set minimum service standards that shall be respected by distribution and retail companies and automatic compensations for customers in case of failure to respect them. At present the only automatic refunds not yet provided for is that referring to late billing, while regarding incorrect billing the regulation on bill ex-post account adjustments provides that customers shall receive an automatic refund in case the bill account adjustment delay is over 90 days.</p>
<p><i>Are given adequate notice of any intention to modify contractual conditions and are informed about their right of withdrawal when the notice is given. Service providers shall notify their subscribers directly of any increase in charges, at an appropriate time no later than one normal billing period after the increase comes into effect in a transparent and comprehensible manner. Member States shall ensure that customers are free to withdraw from contracts if they do not accept the new conditions notified to them by their electricity service provider;</i></p>	b)	<p>Art. 13 of the Commercial Code of Conduct defined by the Regulator provides that all customers shall be alerted 90 days ahead of any modification of standing contract conditions and that they can withdraw from the contract without charges in case they do not agree with the modified conditions. The power to decide unilateral modification of contract conditions shall explicitly be mentioned in it in order to be exercised by the utility.</p>
<p><i>Receive transparent information on applicable prices and tariffs and on standard terms and conditions, in respect of access to and use of electricity services;</i></p>	c)	<p>Art 10 of the Commercial Code of Conduct provides that contracts contain a synthetic frame in which the supply costs for the customer are illustrated in a clear and transparent manner.</p> <p>Moreover, Charter IV of the Commercial Code of Conduct provides that at least domestic customers shall receive from suppliers a comparative table illustrating the actual and forecasted annual energy expenditure in case they opt for a specific commercial option including the details of the possible overheads they should stand for the supply of different services.</p>

<p><i>Are offered a wide choice of payment methods, which do not unduly discriminate between customers. Prepayment systems shall be fair and adequately reflect likely consumption. Any difference in terms and conditions shall reflect the costs to the supplier of the different payment systems. General terms and conditions shall be fair and transparent. They shall be given in clear and comprehensible language and shall not include non-contractual barriers to the exercise of customers' rights, for example excessive contractual documentation. Customers shall be protected against unfair or misleading selling methods;</i></p>	d)	<p>There are no obligations regarding different payment methods; however in the case of customers served under the standard offer regime (residential and small business customers) at least one payment method shall be free of charge.</p> <p>Art. 10 of the Commercial Code of Conduct set by the Regulator provides that contracts are written using a clear and readable printing type and a readable and clear language for all customers.</p> <p>Protection against unfair and misleading selling methods is in general provided for by the national antitrust law and is specifically mentioned in the Commercial Energy Code of Conduct</p>
<p><i>Are not charged for changing supplier;</i></p>	e)	<p>Customers are not charged when they change supplier.</p>
<p><i>Benefit from transparent, simple and inexpensive procedures for dealing with their complaints. In particular, all consumers shall have the right to a good standard of service and complaint handling by their electricity service provider. Such out-of-court dispute settlements procedures shall enable disputes to be settled fairly and promptly, preferably within three months, with provision, where warranted, for a system of reimbursement and/or compensation. They should, wherever possible, be in line with the principles set out in Commission Recommendation 98/257/EC of 30 March 1998 on the principles applicable to the bodies responsible for out-of-court settlement of consumer disputes(1) OJ L 115, 17.4.1998, p. 31. (</i></p>	f)	<p>Commercial quality of service rulings (Annex to ruling ARG/com 164/08) provides that retailers answer to complaints in a complete and transparent manner within 40 days. The failure to comply with such an obligation implies an automatic refund for the customer.</p> <p>With ruling ARG/com 183/11 the Regulator started the activities for the definition of rules regarding out of court settlement procedures for customers vs retail and distribution companies of electricity and gas.</p>
<p><i>When having access to universal service under the provisions adopted by Member States pursuant to Article 3(3), are informed about their rights regarding universal service (for electricity);</i></p> <p><i>When connected to the gas system are informed about their rights to be supplied, under the national legislation applicable, with natural gas of a specified quality at reasonable prices (for gas);</i></p>	g)	<p>Customers are fully and transparently informed about their rights through a set of informative tools developed by the Regulator: the Consumer Atlas, the web site, the Consumer call center managed by the Single Buyer (<i>Acquirente Unico</i>).</p> <p>Customers are also informed of their rights through the regulation regarding energy contracts and billing set in these years by the Regulator.</p>

<i>Have at their disposal their consumption data, and shall be able to, by explicit agreement and free of charge, give any registered supply undertaking access to its metering data. The party responsible for data management shall be obliged to give those data to the undertaking. Member States shall define a format for the data and a procedure for suppliers and consumers to have access to the data. No additional costs shall be charged to the consumer for that service;</i>	h)	<p>The rulings of the Regulator in these past years have set terms, conditions and procedures for consumption/consumer data exchange among distribution and retail companies in order to allow retailers to use them for a correct billing and encouraged the development of communication standards in order to facilitate the switching processes.</p> <p>The regulation of billing sets obligations for the utilities to publish individual consumption data (annual consumption, typically). Through complaints procedures or a specific request of information customers can ask retailers more details on consumption data that the retailer itself shall ask to the distribution company.</p> <p>Exchange of data flows has been disciplined by the Regulator also through the design and implementation of the Integrated Information System (IIS).</p> <p>Finally thanks to the full roll-out of smart meters in Italy also domestic customers can also gain access to the real-time (energy and power) and peak, mid-peak and off-peak consumption data used in the billing documents.</p>
<i>Are properly informed of actual electricity consumption and costs frequently enough to enable them to regulate their own electricity consumption. That information shall be given by using a sufficient time frame, which takes account of the capability of customer's metering equipment and the electricity product in question. Due account shall be taken of the cost-efficiency of such measures. No additional costs shall be charged to the consumer for that service;</i>	i)	Data collected on a monthly basis by the distribution companies in the electricity sector and on different basis according to levels of consumption for gas (monthly, quarterly, or each four months) are recorded on customer bills.
<i>Receive a final closure account following any change of electricity supplier no later than six weeks after the change of supplier has taken place.</i>	j)	At present there are no obligations regarding the final closure accounts in case of change of supplier.
PAR. 2		
<i>Member States shall ensure the implementation of intelligent</i>		In the electricity sector the roll-out of smart meters has almost been completed. At the end of 2011 more than 95% (over 30

<p><i>metering systems that shall assist the active participation of consumers in the electricity supply market. The implementation of those metering systems may be subject to an economic assessment of all the long-term costs and benefits to the market and the individual consumer or which form of intelligent metering is economically reasonable and cost-effective and which timeframe is feasible for their distribution. Such assessment shall take place by 3 September 2012. Subject to that assessment, Member States or any competent authority they designate shall prepare a timetable with a target of up to 10 years for the implementation of intelligent metering systems. Where roll-out of smart meters is assessed positively, at least 80 % of consumers shall be equipped with intelligent metering systems by 2020. The Member States, or any competent authority they designate, shall ensure the interoperability of those metering systems to be implemented within their territories and shall have due regard to the use of appropriate standards and best practice and the importance of the development of the internal market in electricity.</i></p>	<p>million) customers had smart meters installed in their premises.</p> <p>In the natural gas sector Regulator in 2008 promoted a roll out project for gas smart meters according to which by 2016 all 17.5 million customers should have been provided by smart meters (Ruling ARG/gas 15/08). With consultation document 4/11, in 2011 the Regulator, acknowledging the slow path of effective roll-out has proposed to adjust the timetable of the roll-out program.</p>
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Ensuring access to consumption data

Legislative Decree no. 93/11 provides that the Regulator shall, within 6 months after the publication of the decree (31 December 2011), adopt new rulings or modify existing ones in order to: *“...allow customers to access all relevant consumption data and to oblige distribution companies to make customers data accessible to retailers, having regard of the quality and timing delivering of such data.”*

The rulings on energy billing, completed by the Regulator in 201 (see Annual Report to the EC, 2011), envisages that the customer shall be informed also about its consumption data. Through complaints and ad hoc a request he/she can moreover ask its consumption data to the retailer who shall ask them to the distributing company. In consideration of the very large diffusion of smart meters in the electricity sector, the end user customer has also the possibility to access to current consumption data and consumption data in peak/off-peak/mid-peak hours used for the latest bill through the electronic display.

Finally the Italian regulation provides that the Integrated Information System (*Sistema informativo integrato, SII*⁵⁷) develops, through a central register of off take points and a register of recognized operators, the procedures for the centralized management of the communication of consumption data and the development of related services. In 2011 the Authority has proposed terms and condition of starting up the SII with a consultation document (DCO 35/11⁵⁸).

Public service obligations

Public service obligations contained in Legislative Decree no. 93/11 (art. 35.2 and 35.3) refer to measures to be adopted or modified by the Regulators within 6 months from its publication (31 December 2011) regarding: the right for customers to switch supplier within 3 weeks and to access to transparent information regarding energy tariffs and economic conditions, and minimum terms and conditions for energy contracts. The Regulator shall moreover, also in collaboration with the Single Buyer (*Acquirente Unico*) and Energy Systems Operator (*Gestore dei servizi energetici, GSE*), adopt all necessary measures in order to assure that customers are informed about the EC Customer Rights Code. Finally, in order to promote energy efficiency, the Regulator shall set criteria according to which utilities make an efficient promotion of the use of electricity also through ration using services, smart meters and grids, and innovative products.

Since 2008 the “*Sportello per il consumatore di energia*” has been established at the premises of the Single Buyer in order to inform customers through a call-center. Dedicated web services have also been published on the web site of the Authority aimed at increasing the level of information and knowledge about market conditions of the customers (“*Trova offerte*” and “*Atlante dei consumatori*”). Finally, *memorandums of understanding* have been signed by the Authority with consumer protection associations in order to promote through them customer information.

The Commercial Code of Conduct for retailers of electricity and gas⁵⁹, rules and fully implements the provisions of the Third package (i.e., Tab. 3.16), also the right to access to transparent information regarding tariff and economic conditions and minimum contract conditions.

The Authority has also, in 2011, further reinforced the regulation of switching procedures⁶⁰ in particular in relation to the information flows among retailers and the distributors related to the delivery of data and the timing in order to allow the retailer to use them for correct billing and has facilitated the same flows by imposing communication standards.

The Regulator also introduced the term of 3 weeks for the completion of procedures in the regulation of switching processes in 2011 with ruling ARG/elt 201/11⁶¹.

Definition of vulnerable customers

With reference to the electricity sector legislative decree, with art. 35 on Public service obligations and consumer protection, provides that all domestic customers and small firms (with less than 50 employees and less than 10 million euro yearly turnover) who do not choose their supplier on the free market are to be supplied through the “standard offer regime” set by Law 125/2007. It also

⁵⁷ Resolution ARG/com of 17 November 2010, ARG/com

⁵⁸ Document of 15 September 2011.

⁵⁹ Enclosure A Resolution ARG/com 104/10.

⁶⁰ Resolution ARG/com 146/11 of 27 October 2011.

⁶¹ Resolution ARG/elt 210/11 of 29 December 2001.

states that following the monitoring activity of the competitive conditions in the retail market carried out at least each two years, the Ministry of Economic Development (MED) can accordingly adjust some features of the “standard offer regime” in particular with reference to industrial customers.

Since 2009 a special protection regime for domestic customers with serious economic and/or health problems allowing discounts on electricity billing has been designed in Italy. At the end of 2011 around 1 million customers were already participating to the program.

Other measures

In 2011, the Authority has also, within its consumer protection activity, provided particular attention to the phenomena of false and/or not –requested electricity and gas supply contracts” which had already been reported to the Authority itself and to the “*Sportello del consumatore*” by many complaints and notifications also mentioned in the 2011 Annual Report to the Italian Parliament. In their complaints end user customers reported not having signed any contract or even the false signature of such contracts, or the lack of recognition by the supplier the right of the customer to step back from the signed contract within a specific timing by the legislation; in other case an incorrect behavior on the part of the commercial operators of retailers who provided the customers with false information aimed at having the customer signed the contract, was reported. The reports and notifications referred to both the contractual phase in which the aim of the retailer was to conclude the contract, or the following phase in which the victim was unable to the supply contract actually chosen.

With resolution VIS 76/11⁶², the Authority started an activity aimed at collecting further information on the above-mentioned issue and to further involved all the parties (customers and operators) in order to identify and, where possible, share, the most efficient solutions. In October and November 2011 the Authority organized formal hearings, with domestic and non-residential consumers associations, electricity and gas retailers associations and associations of other operators involved, in order to have from them a full description of the problem and of the possible envisaged solutions. Following the hearings the Authority launched a proceeding⁶³ and at the same time published a consultation document (DCO 46/11⁶⁴) in which it described its proposal for preventive and corrective measures to the benefit at least of the electricity service consumers having the right to the special offer regime.

3.4 Security of supply

Monitoring the balance between demand and supply is not among the competences attributed to the Regulator insofar as Legislative Decree no. 93/11 attributes them the Ministry of Economic Development (MED).

Monitoring investment in generation capacity in relation to security of supply

The competences and duties referring to the monitoring of investments in generation capacity were attributed by Legislative Decree no. 93/11 to the Italian Regulator in compliance with article 37(1)(r) of 73/2009 EC Directive. The Regulator considered that the most efficient method of

⁶² Resolution of 21 July 2011.

⁶³ Resolution ARG/com 185/11 of 15 December 2011.

⁶⁴ Document of 15 December 2011.

complying with such duties was to design in 2011 the capacity payment mechanism described below. According to Legislative Decree no. 93/11 other duties regarding the monitoring of investment capacities have been attributed to the MED, in particular:

- operational network security (Article 7 2005/89/EC)
- investment in interconnection capacity for the next 5 years or more Article 7 2005/89/EC
- expected future demand and envisaged capacity for the next 5 years and 5-15 years (Article 7 2005/89/EC)

Capacity payment mechanism

With ruling ARG/elt 98/11⁶⁵, the Regulator set new terms and criteria for the remuneration of generation capacity (i.e., capacity payment) aimed at increasing the level of coordination of investment choices of the operators (Terna, the TSO, and the generation companies), by reducing at the same time the connected risks and increasing the level of competition.

The ruling provides that Terna buys from generating companies physically backed call options for the quantities needed by the system each year in order to protect customers from the risks of peak prices deriving from insufficient generation capacity. Such options are to be traded through auction on a capacity market and shall be characterized by:

- energy unit prices set according to variable costs of a new peak plant;
- payment of an annual prize determined by the capacity market with obligation to pay the back the positive differences between the reference price (i.e., the spot energy price) and the operational price.

In order to allow participation in the capacity auctions also planned or under construction generation capacity tradable options shall have a 3-year delivery span and a minimum 4 year planning span.

The timing introduced by ruling ARG/elt 98/11 provides that Terna defines a draft framework of the capacity payment system to be submitted to the MED by the second half of 2012 after a revision by the Regulator and the consultation with stakeholders. If the timing is respected the first auctions shall take place at the beginning of 2013.

⁶⁵ Resolution of 21 July 2011.

4. THE GAS MARKET

4.1 Network regulation

4.1.1 Unbundling

Regulation of unbundling

The regulation of functional and accounting unbundling in the natural gas sector is essentially identical to that developed for the electricity sector, treated in section 3.1.1.

Certification of the transmission system operator

The certification procedures regulated by the Authority with Resolution ARG/com 153/11, focused particularly on the provisions of Directive 2009/73/EC regarding the model of Independent Transmission Operator (ITO) within a vertically integrated company, which had been the situation for the largest gas transmission company. These provisions require, among other things, that the operator implements measures to ensure:

- the performance of all network management tasks required by Legislative Decree no. 93 of 01 June 2011;
- the availability of all resources required for the management and development of the network; particularly important in this respect is the prohibition to enter into service contracts with the vertically integrated company with other subsidiaries of this company;
- independence from the vertically-integrated company and from its subsidiaries in relation to the rules of governance and company organization;
- independence from the vertically-integrated company and from its subsidiaries in relation to communication policy and company brand;
- compliance with specific requirements of independence on the part of administrators, the line managers and the personnel manager;
- the capability to establish a compliance program which specifies the measures taken by the operator to ensure non-discriminatory network management, as well as the multi-year network development plan.

Subsequently, Decree Law no. 1 of 24 January 2012, converted with amendments into Law no. 27 of 24 March 2012, laying down urgent measures for market competition, infrastructure development and competitiveness, amended the choice of the ITO model for Snam Rete Gas in favor of the model of ownership unbundling, deferring the definition of the legal criteria, terms and conditions with which the company must comply to accommodate this model to a Decree of the President of the Council of Ministers - to be adopted "after consultation with the Authority."

4.1.2 Technical functioning

Balancing services

In 2011, after a⁶⁶ lengthy consultation process initiated in 2008, the Authority adopted Resolution ARG/gas 45/11 which introduces a balancing mechanism for natural gas based on economic merit. This is one of the most important measures in the regulation of the gas sector to be taken in recent years, because it introduces important structural elements in favor of efficiency and competitiveness.

The first advantage is that by pricing balancing gas in an organized market, even users without gas in storage can balance their gas portfolio by buying balancing resources in a transparent and efficient way, thereby overcoming the criticalities raised in the Survey on storage, conducted jointly with the competition Authority in 2009.

Another important point is the advancement over the previous allocation arrangements under which storage gas available to users was known only after closing the transport balances, with a delay of about three months with respect to day of flow. With the new system, the timely knowledge of their position allows users to efficiently exploit storage resources, also increasing liquidity on the spot market.

The major transport operator, Snam Rete Gas, is responsible for both physical and commercial balancing. The first ensures the maintenance of an adequate level of pressure in the national network, providing a balance between injections and withdrawals. The second is concerned with the tracking the transactions of each user and pricing the imbalances.

Prior to introduction of the mechanism based on economic merit, payments for balancing services were determined by the application of regulated fees to the shortfall or surplus which could not be compensated for from injections into or withdrawals from the storage space available to the user. With the new market based mechanism the balancing administrator procures resources from the users at prices determined by the marginal prices of the offers submitted by them to increase or decrease injections and withdrawals.

Resource procurement and balancing takes place in daily sessions at a platform organized and managed by the Energy Market Administrator (*Gestore dei mercati energetici, GME*), in which the purchase and sale offers are compared for their economic merit. All market participants are required to submit their bids on a daily basis, before 20:00 hours. The platform orders the purchase and sales offers in order of price and builds the supply and demand curves. Purchases and sales are all valued uniquely at the price determined by the intersection of the supply and demand curves (the marginal price). The transactions for the volumes sold or purchased to compensate for the imbalance are concluded between the individual users and the network administrator, which has the function of central counterparty.

The new balancing system complies with EC Regulation 715/2009 on access to gas transmission network, which requires⁶⁷ that balancing rules reflect the "real needs of the system," as a whole and not at the level of individual users, and are based on market rules. It has allowed progress towards a more efficient allocation of resources and costs, but remains at present a simplified model of balancing based on economic merit, since the offers to increase or decrease injections or withdrawals can only be based on the availability of storage. In any case, legislative and regulatory changes are already underway to allow users to offer resources made available from changes to

⁶⁶ Resolution of 15 April 2011.

⁶⁷ Article 21.

LNG and other import programs, so that the network administrator will eventually be able to choose from a greater variety of resources, selected on the basis of economic merit, to maintain the system in equilibrium.

The new balancing system has required implementation by the Authority of a series of regulatory measures to make it fully operational; specifically the approval of:

- the balancing platform submitted by the GME ;
- changes to the Network code of Snam Rete Gas and the Storage codes of Stogit and Edison Storage, necessary to regulate the procedures for applying the new balancing regime ;
- the contract between Snam Rete Gas and the GME, regulating the procedures for coordination of balancing activities between the two parties .

Since its launch on 01 December 2011, the balancing system was shown good liquidity and flexibility and has allowed price formation in line with the prices in the OTC market and on the exchange.

In order to mitigate the risks connected to insolvency of the users of the balancing system, Resolution ARG/gas 45/11 and subsequent amendments also require the administrator of the network to include specific risk management procedures in the network code and related guarantees against exposure of the system to transactions with insolvent users.

Safety of the natural gas distribution service

The safety of gas distribution service regards the safeguarding of persons and property from damage due to explosions, fires and explosions caused by gas distribution. It depends on: the addition of odorants to natural gas, designed to help detect its presence in the air in the event of gas leakages; the existence of an emergency service providing a prompt response to calls, capable of guaranteeing an expeditious return to safely functioning facilities; the elimination of gas leakages through inspection of the distribution network, the cathodic protection of steel pipes.

Regulation of security of gas distribution service is currently codified in the Unified text regulating the quality and tariffs of gas distribution and metering services for the regulatory period 2009 - 2012 (TUDG) in which Part I addresses the Regulation of the quality of distribution and metering (RQDG). While previously smaller companies could adhere on a voluntary basis to the system of incentives for improvements in safety, in the RQDG the Authority disposes the transition to a mandatory system of rewards/penalties for all gas distribution companies during the course of the regulatory period.

The system rewards distributors supplying service characterized by higher levels of safety than the minimum levels established by specific regulation. The system of incentives rewards independently the reduction of gas leakage reported by third parties and a greater number of controls on the degree of odorization compared to the mandatory annual minimum defined in the RQDG. During 2011 and early 2012, the Authority approved the initial levels and schedules of the distribution companies which served 10,000 customers on 31 December 2007.

⁶⁸ With Resolution ARG/gas 145/11 of 27 October 2011,.

⁶⁹ With Resolutions ARG/gas 155/11 of 10 November 2011; ARG/gas 159/11 of 17 November 2011; ARG/gas 161/11 of 24 November 2011.

⁷⁰ With Resolution ARG/gas 182/11 of 15 December 2011.

⁷¹ Unified text on quality and tariff regulations for gas distribution and metering services for regulatory period 2009-2012.

⁷² Regulation of the quality and metering of distribution.

As in previous years, in 2011 the Authority carried out inspections and audits of individual companies, designed to ascertain the implementation of the RQDG and discourage gas distribution companies from adopting opportunistic solutions to circumvent the regulatory provisions with serious risks for the safety of citizens and end users of gas. The audits are also designed to verify the correctness of the company data related to safety improvements in the delivery of natural gas.

The inspections and audits, approved by the Authority in 2011⁷³, involved 60 distribution facilities located throughout the country. As usual, the activities were carried out in collaboration with the Special Unit for the Protection of Markets of the Guardia di Finanza and the Experimental Station for Fuels. Failure to comply with the applicable legislation on gas odourisation, determined by the quality checks, besides making the company liable to criminal prosecution under Law no. 1083 of 06 December 1971, also results in the company foregoing the right to retain the incentives earned for the plant in question. In relation to this, the Authority implemented⁷⁴ for the first time the new discipline introduced with Resolutions 59/2012/S/gas 60/2012/S/gas⁷⁵ whereby the company can choose alternatives to the sanctions, for a more effective pursuit of the protected interests.

Turning to the issue of emergency, with Resolution VIS 22/11⁷⁶ the Authority approved a program of inspections and telephone inquiries with the purpose of ascertaining, among other things, the proper implementation by the gas distribution companies of emergency measures ruled by the Authority. Breaches of the discipline can result in the loss of the right to collect the safety related incentives for the year.

Again with reference to the issue of emergency, with Resolution VIS 108/11⁷⁶ the Authority ordered a group of distributors to ensure the fulfillment of reporting obligations to the Authority for 2010 using the online system, as provided for in the RQDG. Failure to comply with reporting requirements is a prerequisite for the possible initiation of formal inquiry by the legal offices of the Authority.

Safety of end user equipment⁷⁷

With Resolution 40/04⁷⁷, the Authority disciplined the rules for verifying and certifying the end-user safety equipment. This requires that, for new installations, the customer provides the distributor with the technical documentation required to enable the verification and certification of equipment safety before its activation. In the initial stages of implementation, in order to facilitate its adoption, the regulation enables distributors to activate new gas supplies even in the absence of technical documentation, as long as the customer can provide a declaration of liability stating that tests at the installation, undertaken following the applicable standard procedure⁷⁸, provided no evidence of leakage (Annex E of the resolution). With Resolution ARG/gas 58/11⁷⁸ the Authority further extended exemptions to the full application of the regulation, over appropriate period of time, by introducing simplified procedures for the activation of supplies in the municipalities affected by the earthquake that struck the Abruzzo region on 06 April 2009, as provided in the first phase of implementation of Resolution no. 40/04.

⁷³ Resolution VIS 77/11 of 21 July 2011.

⁷⁴ Resolutions of 01 March 2012.

⁷⁵ Resolution of 07 March 2011.

⁷⁶ Resolution of 22 December 2011.

⁷⁷ Resolution of 18 March 2004.

⁷⁸ Resolution of 12 May 2011.

Quality of gas distribution and metering services

Every four years the Authority proceeds with an overall review of quality of service regulation. Given that the current regulatory period ends in 2012, with Resolution ARG/gas 64/11⁷⁹, the Authority launched the procedure for the definition of provisions relating to quality of service in distribution and delivery and metering for the regulatory period 2013 - 2016. In this procedure, the Authority has resolved to take into account:

- the need to ensure that quality standards, incentives and compensation to customers relating to quality of service are defined in coherence with the tariffs and other fees regulated by the Authority for gas distribution and metering;
- the desirability of introducing quality of service levels that are uniform throughout the country and comparable to the levels achieved or proposed in other EU Member States;
- the opportunity of enhancing regulation on safety, in order to obtain greater uniformity of performance among companies;
- the need to refine and simplify regulations in the light of the experience gained and of normative developments, by operating on the current mechanisms to reduce leakage in gas networks at the same time as promoting technological innovation in support of security and taking into account the different concentration of customers on distribution networks;
- the opportunity to improve the regulation of commercial quality of gas distribution and metering, by further enhancing efficiency and non-discrimination in the performance of services requested by end users;
- the application of new laws governing the assignment of gas distribution services to a single company for each geographical area, specifically with reference to the inclusion of quality and safety standards among the criteria for the evaluation of tenders for awarding the service;
- the need to define appropriate regulatory mechanisms that ensure the continuation of adequate safety conditions during the transition period before entry into force of the new legal framework in the gas distribution sector;
- the need to strengthen competition, non-discrimination between stakeholders, transparency and ensure the availability of comprehensive information.

Figure 4.1 shows data relative to network inspections. The growing trend is confirmed also in 2011. Indeed both the inspections for low pressure network and high-medium pressure network was nearly 60% of total network, widely over the minimum provided from current regulation (that is 20% for low pressure network and 30% for high pressure network). Inspection is very important to prevent network losses and to increase the safety of citizens and of all final users.

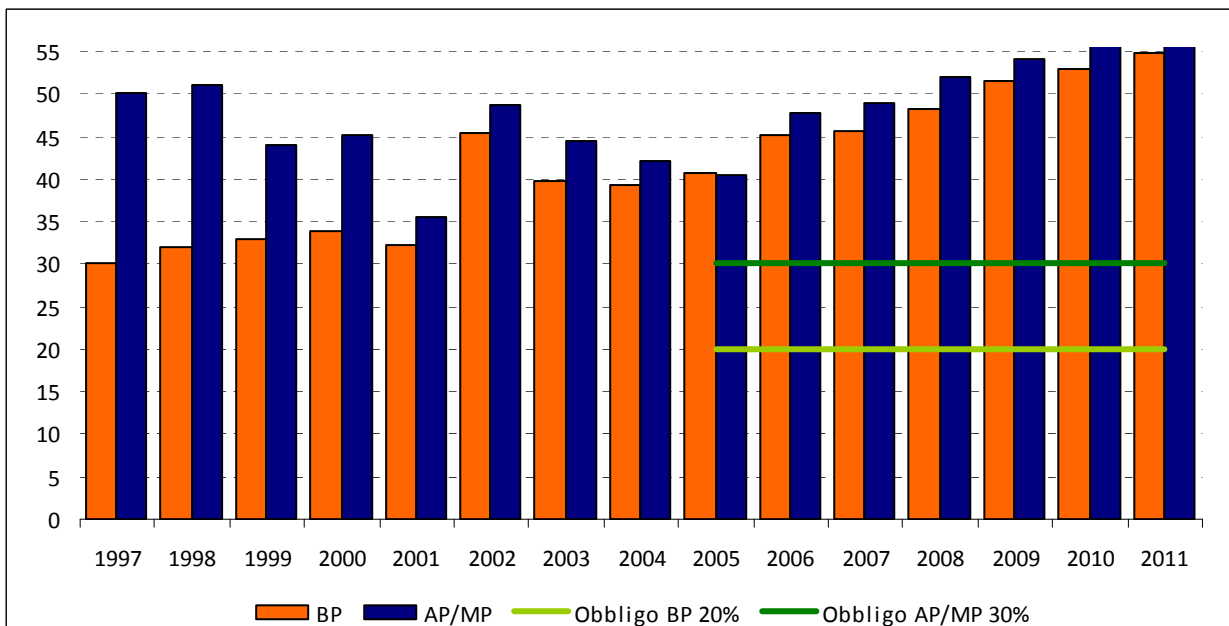
For the activity of assistance on emergency calls Figure 4.2 shows that, with respect to a decrease in calls on the distribution system, it recording a time of arrival at the call location equal to a national average of 35 minutes. The average effective waiting time was much lower than the maximum time provided by RQDG, that is 60 minutes. Compared to the year 2010 there was a slight decrease. The obligation of calls recording, introduced by RQDG from 1st July 2009, with the usual monitoring campaign on assistance service of gas companies implemented with the help of the Guardia di Finanza⁸⁰, encourages firms to a more precise recording. In addition, the number of firms obliged to participate to the recovery of security is gradually increasing and the respect of

⁷⁹ Resolution of 19 May 2011.

⁸⁰ The Italian law enforcement agency.

the assistance provisions is a prerequisite for the recognition of safety recoveries of the entire local area which belongs to the distribution system .

Figure 4.1 Percentage of inspected network in years 1997-2011

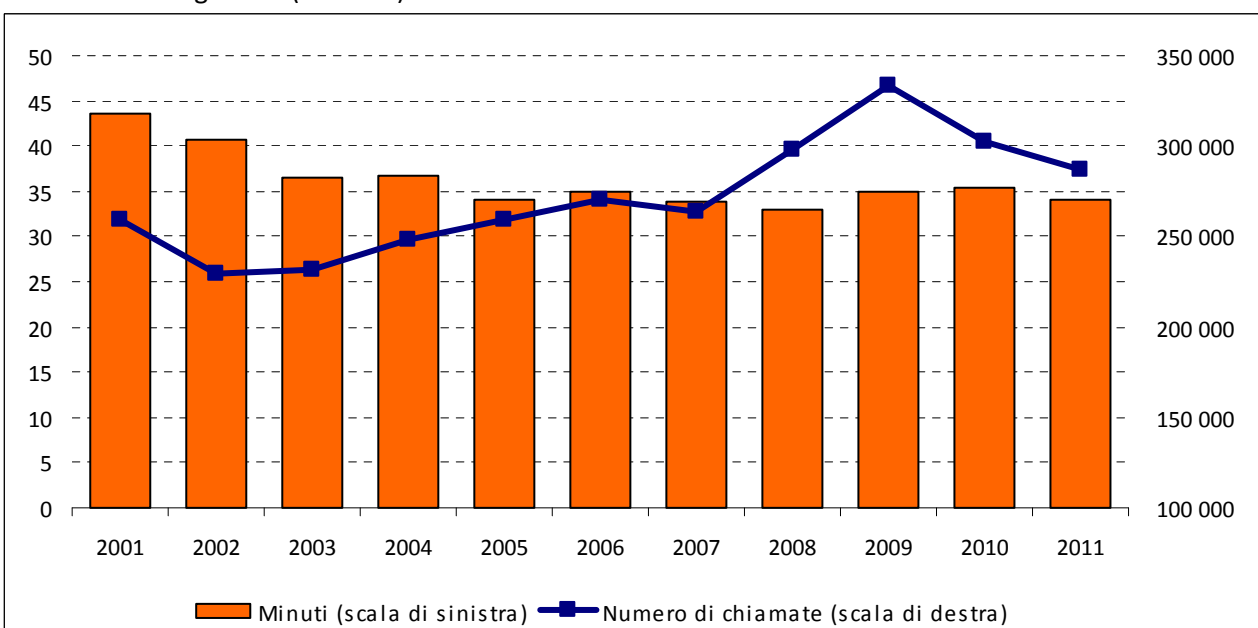


Source: Data provided by distributors to Authority.

Label: BP: low pressure; AP/MP: high pressure/medium pressure.

Figure 4.2. Assistance calls on distribution system in years 2001-2010

Effective average time (minutes) and calls.



Source: data provided by distributors to the Authority

Label: minutes on the left hand and number of assistance calls on the right one

Despite signals of improvement the attention of the Authority on the matter of assistance is always high. In fact, the gas assistance service is an essential service for the safety of citizens and

final users of gas. Only through it, if done in time and in compliance with the provisions established by the Authority in RQDG, you can avoid gas accidents that could have very serious consequences.

Regulation of commercial quality

The regulation of commercial quality by the Authority establishes for a set of commercial services the maximum time within which the services must be provided and automatic compensations that the company must pay the customer in case of non-compliance. The compensation has to be paid for delays caused specifically by the distribution company and separately for each service provided beyond the maximum time. Generally speaking, the specific levels of commercial quality as well as the automatic compensation payable in case of non-compliance depend on the type of user, as determined by the size of the meter. Automatic compensations increase as a function of the delay in the execution of the service, except for punctuality.

In 2011 there was 20% increase in cases of non-compliance and reimbursement actually paid, compared to 2010. This increase is however lower than the 36% increase registered between 2009 and 2010. Automatic compensations amounting to a total of € 1,075,415.80 were paid to 23,846 customers from a total of 25,463 cases of non-compliance with specific standards.

Among the various services subject to automatic compensation, a strong decrease can be observed for non-compliance in the maximum time for reporting the results of meter verification to the retail supplier: 7.49% in 2011 compared to 17.00% in 2010. Non-compliance in the case of punctuality for personalized appointments (the largest sample) showed a non-compliance of 0.35%. The less frequent, supply pressure verification, records failure to comply in the specified maximum time equal to just 0.83%, though significantly greater than that recorded in 2010. Also delays in reactivation of service after disconnection for non-payment increased in 2011 compared to 2010, though remaining quite low at 1.38%.

The average time for all services subject to automatic compensation recorder for low pressure customers, that is with meters up to class G6, was well below the standard established by the Authority. Excluding cost estimates for complex works and the execution of simple works, the average time was equal to about half the standard value. For example, the verification of pressure levels was on average performed in 4.9 days compared to 10.0 days established by the RQDG. The execution of simple jobs is on average processed in 9.1 days compared to the specific standard of 10.0 working days. Cost estimates for complex works is provided on average in a quarter of the maximum time limit, set equal to 40 working days.

Comparing the two years 2010 and 2011, there is a general increase in the overall average times, though remaining well below the standards set by the Authority. Specifically, despite the decrease in the number of requests, an increase from 4.1 to 4.9 days is witnessed for the verification of the supply pressure. A strong increase in the average time, from 3.7 days in 2010 to 5.3 days in 2011 (compared to the standard of 10 working days), is observed also for activation of the supply contract, the request that determines the greatest number of automatic compensations. These nearly doubled between 2010 and 2011 (from 2,277 to 5,986). Second most important in terms of number of automatic compensation was the failure to provide timely personalized appointments.

To ensure consistency with the provisions of the Unified Text on the Quality of Sales, two types of standards were identified concerning data required by retailers from the distribution companies and distinguishing between data available from meter readings and other technical data. An automatic refund of € 20, increasing as a function of the delay, was introduced which the distributor must pay the retailer in case of failure to meet the time limit for execution of the

service for reasons not attributable to force majeure or to third parties. In 2011, as well as in the previous year, significant delays occurred for both standards. Specifically, the acquisition of metering data required an average of 15.6 working days compared to a standard of 10 days while other technical data was provided on average in 18.6 days compared to the standard of 15 working days.

Access to transport, storage and regasification services

The consultation document DCO 27/11⁸¹, issued on 21 July 2011, aimed to explore the coordinated development of the various aspects of the regulation of gas services outlined in the earlier consultation document DCO 25/10⁸². It made specific reference to changes in the criteria used for the allocation of transport capacity,⁸³ also in consideration of the procedure launched by the Authority with resolution ARG/gas 184/09⁸⁴, in relation to community law contained in the so-called "third energy package".

The DCO 27/11 confirmed and developed in greater detail the intention of the Authority to modify the criteria for allocating transport capacity at the entry/exit from storage so that the capacity is attributed to the storage companies and its costs are recovered through fees for the storage service, by analogy with the set up for regasification terminals. To this end, the document identified modifications to the disciplines in the regulation of transport, storage and regasification services established, respectively, in Resolutions 137/02, 119/05, and 167/05⁸⁵.

The DCO 27/11 also foreshadows a revision of the discipline, contained in art. 17 of Resolution 137/02, in which transport charges are not affected by deviations that do not exceed the tolerances limits between the quantities input or delivered entry/exit points with respect to the capacity allocated, instead of considering the temporal envelope of the deviations.

Finally Consultation document DCO 27/11 proposes a revision of the regulation on variable charges for the use of storage in order to address criticalities arising from the introduction of the new balancing system based on economic merit, specifically to avoid the incorporation of these charges in the prices offered for storage services.

Time for the connection to the transport and distribution network

The data on connections here reported are distinguished into two groups: pipes connecting to transport networks and pipe connecting to distribution network. For each group the number and the average time for connections, i.e. the completion of the work according to a signed connection contract. The average days for connections are calculated as the average of the time foreseen by Snam Rete Gas in reply to the connection application for each type of plant. As illustrated by Table 4.1 in 2011 100 connections to the national transport network were completed, 91 of which for high pressure and 9 in average pressure⁸⁵.

The average time for the realization of the connection was of 40 working days, on average with a higher value for high pressure connections (on average 45 working days) while the time for

⁸¹ Document of 21 July 2011.

⁸² Document of 26 July 2010.

⁸³ Resolution of 01 December 2009.

⁸⁴ Resolutions of 17 July 2002; 21 June 2005; 01 August 2005.

⁸⁵ Typically the pipes for gas transport are of 3 kinds with a maximum operative pressure of 5 bar.

medium pressure connections the average time is reduced to 26 working days. The number of connections to the distribution network is significantly higher (Table 4.1 and 4.2): little less than 385,000 in 2011. Almost all connections (99%) are in low pressure and the waiting time are reduced in comparison to the connection to the transport network, respectively of 8 working days for the pipes in low pressure and almost 14 days for those in medium pressure.

Table 4.1 Number of connections to the transport network and average time to connect in 2011.

VOLTAGE LEVEL	1.1.5 NUMBER OF CONNECTIONS	AVERAGE TIME (WORKING DAYS) ^(A)
High pressure	91	54,1
Medium pressure	9	25,9
TOTAL	100	40,0

(C) Value calculated without taking into account the time to obtain authorizations.

Source: Annual inquiry on regulated sectors.

Table 4.2 Number of connections to the distribution network and average time to connect in 2011.

VOLTAGE LEVEL	1.1.6 NUMBER OF CONNECTIONS	AVERAGE TIME (WORKING DAYS) ^(A)
High pressure	91	54,1
Medium pressure	9	25,9
TOTAL	100	40,0

(D) Value calculated without taking into account the time to obtain authorizations.

Source: Annual inquiry on regulated sectors.

Approval and update of the network codes⁸⁶

With Resolution ARG/gas 57/11⁸⁶, the Authority approved the Regasification Code submitted by the company Adriatic LNG (ALNG) for the terminal located in the area of Porto Viro. This is the first code to be approved by the Authority regarding a facility with exemption from third party access, even if only in part. The exemption covers 80% of the regasification capacity of the terminal for a period of 25 years and was granted by Decree of 26 November 2004 by the former Ministry of Production Activities, after consultation with the Authority, and was granted to support the implementation of a new strategic infrastructure that favors the diversification of sources of supply of natural gas.

The regulations governing exemptions to third party access require companies that handle LNG terminals to allow access to a given share of capacity to third parties requesting it. In providing regasification services to third parties, the companies have to ensure the greatest impartiality and neutrality in the management of the terminals as established in the Regasification Code defined by

⁸⁶ Resolution of 12 May 2011.

the companies on the basis of criteria established by the Authority with Resolution no. 167/05 and approved by it. The services provided to the capacity exempted from third party access are also regulated under the Regasification Code.

In any case, as highlighted in Resolution ARG/gas 57/11, the Regasification Code of ALNG differentiates between users with exemption and third party customers in the terms of payment for the services provided: the fees paid by exempted users are defined in the framework of the agreements underlying the infrastructure investment; the fees applied to third party users is regulated by the Authority.

During 2011, the Codes for transport, storage and regasification services were updated to implement new statutory provisions, provisions of the Authority and management criteria directed at improving the service delivered. In particular:

- the proposed update of the Storage Code for Stogit, which provides for the supply and delivery of balancing services on a weekly basis, was approved with Resolution ARG/gas 7/11⁸⁸;
- the provisions relating to unused regasification capacity as well as instructions regulating the measurement of LNG when the boil off is used as fuel during unloading were incorporated in the Regasification Code with Resolution ARG/gas 18/11⁸⁹;
- provisions regarding the daily allocation of gas available from customers that are not measured on a daily basis were implemented in the Transport Codes of Snam Rete Gas and Società Gasdotti Italia, with Resolutions ARG/gas 24/11 and, respectively, ARG/gas 25/11⁹⁰;
- a platform for exchanging information over the Internet was implemented into the Storage Code of Edison Storage with Resolution ARG/gas 37/11⁹¹;
- the proposed update to the Transport Code of Snam Rete Gas regarding the allocation of balancing gas, after closure of the transport balance was approved with Resolution ARG/gas 41/11⁹²;
- the proposed update of the Storage Code of Stogit, pursuant to the provisions of Legislative Decree no. 130 of 13 August 2010, relating to the development of storage activities to encourage greater competition in the natural gas sector was approved with Resolution ARG/gas 47/11⁹³;
- the provisions of Legislative Decrees no. 231 of 08 June 2001, no. 196 of 30 June 2003 and no. 231 of 21 November 2007 regarding administrative responsibility and prevention of the use of the financial system for the purpose of money laundering and financing of terrorist activities were incorporated into the Regasification Code of GNL Italia, the Storage Code of Stogit and the Transport Code of Snam Rete Gas with resolutions ARG/gas 68/11, ARG/gas 69/11 and ARG/gas 70/11⁹⁴;
- the provisions of resolution ARG/gas 45/11 on the balancing market were incorporated in the Transport Code of Snam Rete Gas and the Storage Codes of Stogit and Edison Stocaggio, respectively, with Resolutions ARG/gas 155/11⁹⁵, ARG/gas 159/11⁹⁶ and ARG/gas 161/11⁹⁷.

⁸⁷ Resolution of 01 August 2005.

⁸⁸ Resolution of 31 January 2011.

⁸⁹ Resolution of 16 March 2011.

⁹⁰ Resolution of 23 March 2011.

⁹¹ Resolution of 29 March 2011.

⁹² Resolution of 07 April 2011.

⁹³ Resolution of 14 April 2011.

⁹⁴ Resolution of 09 June 2011.

⁹⁵ Resolution of 10 November 2011.

⁹⁶ Resolution of 17 November 2011.

Natural gas trading and exchange

Law no. 99 of 23 July 2009 delegates the economic management of the natural gas market to the GME. In the past year, consistent with that law, the Authority's provisions relating to trading and exchange natural gas on the wholesale market have mainly focused on the procedures for:

- the management by the GME of the obligatory offers of quotas of imported gas as mandated by Decree Law no. 7 of 31 January 2007;
- the sale of the quotas of natural gas production, as foreseen in the decrees of the Minister of Economic Development of 12 July 2007 and 06 August 2010.

With Resolution ARG/gas 20/11, the Authority established the general procedures for the trading of mandatory quotas of imported gas at the GME platform for thermal year 2011 - 2012 and subsequent years. As for previous measures in this field, the resolution provides for the division into annual and monthly lots by each importer.

With Resolution ARG/gas 95/11, the Authority disciplined the trading via auctions for the transfer of the quotas of domestic gas production due to the State (royalties). This resolution also sets down the procedures that holders of production licenses must follow for the offers of production quotas for 2010 and subsequent years.

Finally, in the area of regulated natural gas markets, with Resolution PAS 8/11 the Authority gave a favorable opinion to the amendment of the Regulation of the gas market (MGAS), proposed by the Ministry of Economic Development, not to allow traders to conclude transfers with themselves at auction sessions so as to avoid the trading of insignificant volumes.

Monitoring of safeguard for the natural gas system

Articles 4 and 8 of Legislative Decree no. 93/11 define the measures and the safeguard plans that the Ministry for economic development shall put in place in case of a sudden crisis on the energy market and when the physical integrity or the security of people and instruments are at risk, as provided for by art. 46 of the Directive 73/2009/EC. Art. 33. par. 3 c) of the same decree attributes to the Italian regulator monitoring duties on the application by operators of such measures, in compliance with the provisions of art. 41 par.1 t) of Directive 72/2009/EC.

The Authority is a member of the Committee for Gas System Monitoring and Emergencies, established by the Minister of Productive Activities with a decree of September 26, 2001. The Committee has an advisory role to the Ministry on emergency operation and management of the natural gas system. Besides the Ministry of Economic Development and the Authority, it includes representatives of the companies operating the national transport system, storage reservoirs and regasification terminals, as well as the operator of the national power grid.

In conjunction with the geopolitical events that led to the closure of Greenstream, the pipeline which transports natural gas from Libya to the point of entry of the national network at Gela, considering the forecasts of natural gas availability and demand for the coming winter season, on 18 July 2011 the Ministry of Economic Development issued guidelines for operators in the interests of safeguarding the continuity and security of supplies. The Ministerial guidelines included the obligation for holders of storage capacity, to ensure full utilization of the injection capacity allocated to them. Following this notice, the Authority immediately approved Resolution ARG/gas 112/11, adopting provisions for balancing fees for transport and storage services,

⁹⁷ Resolution of 24 November 2011.

designed to encourage users to maximise the use of their facilities for the remaining period of injection into storage.

4.1.3 Network tariffs for connection and access

Transport

With Resolution ARG/gas 49/11 the Authority issued provisions concerning general charges, with the aim of making their application more transparent and integrating them within the scope of the Regulation of tariffs for gas transport and dispatching services for the regulatory period 2010 - 2013 (RTTG). Moreover, with ARG/gas 178/11, the Authority approved the tariff proposals and the charges for transport and dispatching submitted by the transport companies, as well as the transitional payment for the metering of gas transport for the year 2012.

With Resolution ARG/gas 156/11, the Authority introduced provisions in the RTTG to encourage the accelerated entry into operation of investments increasing transport capacity, regarding specifically:

- incentives entitling transport companies to increases in the rate of return on assets under construction, upon verification of the degree of achievement of the annual objectives proposed by the company;
- rewards and penalties in relation to meeting the schedule for entry into operation of the infrastructure.

In the resolution, the Authority provided that the incentive mechanism is to be applied on an experimental basis during the period 2012 - 2013, entering into force from the regulatory period 2014 - 2017. During the pilot application, the Authority has established that:

- the incentive mechanism is optional and replaces the compensation criteria based on construction in progress, which provide for automatic recognition of the increase in the rate of return;
- the incentive mechanism is limited to priority investments considered of particular relevance for the transport system;
- the mechanism of rewards and penalties is not applied, so that the acceleration of investments is induced solely by the incentives on rate of return.

Regasification

With Resolution ARG/gas 107/11, the Authority approved the tariff proposals for regasification services for thermal year 2011 - 2012 submitted by GNL Italy and Adriatic LNG and the proposed update of the fee for marine towing and mooring services at the company's Adriatic LNG terminal. With the same resolution, the Authority determined the transitional reference tariff to cover metering services provided by the regasification companies, applicable in the interim period before completion of the transition to regulated metering tariffs for transport services. Finally, in view of the conclusion of the third regulatory period (01 October 2008 - 30 September 2012), with ARG/gas 108/11 the Authority launched the procedure for the regulation of tariffs for regasification services for the fourth regulatory period (2013 - 2016).

Storage

As established in Legislative Decree no. 164/00 and retained in Law no. 239/04 and Legislative Decree no. 93/11, access to and delivery of storage services is regulated by the Authority, which defines the regulated rates and access conditions and approves the storage codes proposed by the operators after checking that they adhere to the legislative and regulatory criteria. Access to storage services is regulated by Resolution 119/05.

The Authority is directly also involved in the application of Legislative Decree no. 130 of 13 August 2010 which has introduced specific measures for the development of new storage capacity, and which includes transitional norms to allow investors to receive advantages equivalent to those they would have if the new storage capacity was immediately operational, rather than waiting typically for five years. Pursuant to the decree, with Resolution ARG/gas 29/11, the Authority approved the criteria for the definition of fees for access to new storage capacity and the transitional arrangements anticipating the effects of new storage capacity in the storage market.

With Resolution ARG/gas 106/11 the Authority specifically approved:

- the fees due to the storage companies for storage and metering services conducted by them, the uniform national storage tariff and the transitional tariff for metering gas transport to storage reservoirs for 2012;
- the proposals for the reduction in unit fees for injection and withdrawal for interruptible storage capacity, as well as for the increase in peak delivery for delivery capacity conferred during the injection phase;
- the unit charges for access to and utilization of the new capacity implemented pursuant to Legislative Decree no. 130/10, as well as the fees for access to the transitional measures laid down in Resolution ARG/gas 29/11.

In the same resolution, the Authority also determined the value for 2012 of the compensation for land lost to alternative uses to be allocated to the administrative Regions in which the storage plants are based, as well as the charge to be included in the tariff component necessary to recover the revenue required for the compensation.

Distribution

Resolution ARG/gas 114/11 approved tariff options for distribution and metering of gases other than natural gas distributed by pipeline networks, for 2010 and 2011, for a number of companies for which it was necessary to obtain additional information on previously reported investments.

With Resolution ARG/gas 195/11 the Authority updated for 2012, the mandatory charges for natural gas distribution and metering and the pricing options for the distribution and metering of piped gases other than natural gas. On the other hand, the determination of reference tariffs has been suspended pending the procedure for the evaluation of modifications to current tariff regulation, initiated with Resolution ARG/gas 235/10, following the verdict of the Lombardy Regional Tribunal.

In implementing the provisions contained in Legislative Decree no. 28 of 03 March 2011, the Authority issued Resolution ARG/gas 120/11, launching a procedure aimed at defining the technical and economic conditions for the connection of biogas plants to natural gas networks. As provided by Law no. 28/11, in addition to technical and economic conditions for the connection, the Authority must establish the chemical characteristics of the gas, the odourisation levels and the pressure limits for injection into the natural gas grid. Additional tasks assigned to the Authority

consist of the definition of the procedure, schedule and costs for the completion of all phases of inquiry needed to identify and establish the connections.

Metering

With Resolution ARG / gas 155/08, the Authority had issued directives for the commissioning of gas metering equipment with remote reading and management functions, at the delivery points of natural gas distribution networks, which later proved to be inapplicable due to intervening technological and regulatory developments. On the normative side, Law no. 99/09 defines new limits for the validity of the calibrations of meters with capacity up to 10 m³/h. From the technological side, the trade associations have criticized both the reliability of available metering and communication equipment and the meter installation schedule specified in Resolution ARG/gas 155/08, in order to be able to benefit from the savings in investments which new technological solutions might bring.

As a consequence, with Resolution ARG/gas 36/11, the Authority launched a procedure for the introduction of amendments to the regulation of the gas metering tariff, in relation to obligations foreseen by Resolution ARG/gas 155/08. In particular, the Authority considered it necessary to carry out further analysis aimed at testing the effectiveness of regulatory tools in place today in relation to the need to ensure the efficient development of metering services and favor value creation for final customers over the medium term. In the framework of the above procedure, two consultation documents were issued of which consultation document DCO 17/11, approved on 19 May 2011, examined a number of proposals in relation to: costs related to metering equipment and costs related to elements of the remote management system other than the metering units.

On this basis, the Authority subsequently issued Resolution 28/12/R/gas, with provisions both for the metering tariff and for the installation of gas metering units. In adopting this resolution, the Authority took into account the fact that in the period 2008 to 2010 there had been significant replacement of metering equipment, with the installation of conventional meters whose metering calibrations will expire in the period 2023 - 2025, significantly altering the cost/benefit analysis on which Resolution ARG/gas 155/08 had been based.

Exclusion of cross subsidies among activities of the sector

Resolution 11/07 "Obligations for the account and administrative unbundling of the companies *active in the electricity and gas sectors*" aimed at, among others, excluding that the companies active in the electricity and gas sectors cross subsidize different vertically integrated activities. In 2011 the Authority has not either opened or concluded in the gas sector, any procedure aimed at identifying violations of the above mentioned provisions ruling function and account unbundling.

4.1.4 Regulation of access to cross-border infrastructure and international cooperation on related issues

Access to infrastructures and management of congestions

In the natural gas sector, the Authority participated actively in the drafting of guidelines on the allocation of capacity (published by ACER on 03 August 2011) and those on the balancing (published by ACER on 18 October 2011). The new rules redefine the overall structure of the

continental gas market and will have a significant impact on national systems, requiring a considerable effort in harmonization among all interconnected systems.

The Guidelines on the allocation of capacity define innovative methods for allocating capacity on the interconnections between international pipelines, with the aim of creating more liquid markets, concentrating trade at the continental hubs. Procedures are identified for the harmonised allocation of capacity through multiple interconnected systems to create integrated (bundled) products allowing transmission directly from one system to another without having to obtain separately the exit and entry capacities at each border, as is the case today.

The creation of bundled products will facilitate trade between hubs, providing greater liquidity to the market platforms than exists today and promoting competition. This regulatory development will allow overcoming the current rigidity in the industry due to the strong influence of long-term supply contracts indexed to oil, and will promote a more flexible exchange system capable of exploiting the existing transport capacity to transfer gas in Europe on the basis of existing price signals.

In the Guidelines defining the new continental gas market, the TSO on an equal footing with all other operators provides balancing services through market mechanisms in which flexibility resources can be marketed through and between shippers. A separate platform is allowed only as an interim solution in countries that do not yet have a sufficiently liquid intraday market. Network users are encouraged to balance themselves autonomously through the market, in which the regulation of imbalances reflects the price paid (or received) by the TSO to buy (or sell) gas on the market for balancing gas. Finally, the guidelines highlight the importance of harmonizing the timing of nominations and renominations in neighboring countries and to adopt a balancing system which refers to the same gas day in all EU countries, regardless of time zone (from 6.00 to 6.00 of a solar day of the next calendar day, Central European Time, CET).

Coordination with other European regulators and ACER

Coordination at the European level has seen the Authority engaged also in the gas sector on three fronts: ACER, the CEER and Regional initiatives. The main objective of this commitment has been the promotion of an integrated, competitive and efficient European energy market in line with the implementation of the so-called "Third energy package". As for the Regional electricity initiatives, three year work plans were prepared for the gas regions to contribute to the achievement of the single market by 2014. A first version of the Target Model for gas, whose preparation actively involved the Authority, was published by CEER at the end of 2011. Italy is included in the South-Southeast Region initiative, which it coordinates together with Austrian regulator and which also includes Bulgaria, Cyprus, Czech Republic, Greece, Hungary, Poland, Romania, Slovakia and Slovenia. The extremely broad geographical composition and the vastly different market conditions as well as levels of interconnection pose significant complexities in the regional integration process.

In addition to security of supply, the South-Southeast region focuses on the allocation of capacity, concentrating on the development of pilot projects, including the extension of the GATRAC (Gas Transport Cooperation) platform to other countries, and the signing of bilateral agreements between neighboring countries. To this end, the Italian and Austrian authorities have undertaken to identify common rules to allow the allocation of daily capacity between the hub at Baumgarten and the Italian market center (virtual trading point - PSV). These projects will assist in identifying the rules for capacity allocation and congestion management to be included in the European network codes being developed.

Relations with EU Third part countries

The collaboration of the Authority with Third countries has mainly developed, also for the gas sector, through the existing institutions and cooperation associations among EU and non-EU regulators of the Balkan area and of the Mediterranean.

During 2011, the Authority participated actively in the preparation of the study Recommendations for funding investments in the Energy Community Gas Ring, aiming at the supply of gas to the Balkans. The Gas Ring is a concept of an integrated and harmonized network covering the whole region. The study, approved at the eighteenth meeting of the ECRB of 15 December 2011, contains an assessment of possible risks to the realization of new investments in the Balkans and possible ways to handle them. It also offers a model for defining regulatory policies (tariff and non) necessary to meet the needs of the stakeholders interested in the implementation of the Gas Ring, which would allow an increase in energy security through diversification of supply sources and integration of gas markets of Albania, Bosnia-Herzegovina, Croatia, Kosovo, Macedonia, Montenegro and Serbia, merging to form a single regional market.

Worthy of special mention are the twinning activities between the Authority and the Ukrainian regulator (NERC), which in various forms has continued uninterruptedly for almost six years. The current activities (Support to NERC in the process of implementation of the Gas Legislation in line with the provisions of the ENCT), launched in September 2011, comes after a previous twinning project, also in the natural gas sector (Regulatory and Legal Capacity Strengthening of Natural Gas Regulation in NERC), assigned to the Authority in 2008 as leader of a consortium of European regulators and funded by the EU European Neighborhood Policy Instrument (ENPI), successfully completed in September 2011.

4.1.5 Compliance

Implementation of the Third energy package: Legislative Decree no. 93/11

As already mentioned in paragraph 3.1.5, 2009 EC 72 and 73 Directives have been implemented into the Italian legislation by Legislative Decree no. 93/11 of 01 June 2011. Referring to the gas sector the above mentioned decree has introduced many novelties besides those already described for the electricity sector (i.e. the definition of a national energy policy and the competences and powers of the Authority) among which the measures for: (i) the unbundling of the owners of transport systems and the transport system operators, (ii) the access to modulation storage and (iii) public service obligations and consumer protection.

- (i) With respect to the separation of the management of transport, production and retail activities Legislative Decree no. 93/11 opted for the Independent Transmission Operator (“ITO”) model for the main TSO (Snam rete Gas) and for the possibility to choose among other models for minor transport companies. Later, Decree no. 1 of 24 January 2012 converted with modifications into Law no. 27 of 24 March 2012, concerning urgent measures for the development of competition, infrastructures and competitiveness, has revised the ITO model with respect to *Snam Rete Gas* (the gas TSO in Italy) and has called on the Presidency of the Council of Ministries to issue a decree, subject to the Regulator’s opinion, which shall set the criteria, conditions and modalities which *Snam Rete Gas* will have to follow in order to comply with the ownership unbundling model.

- (ii) Regarding the access to modulation storage, Legislative Decree no. 93/11 reserved the priority of access to modulation storage to the supply needs of all vulnerable customers (i.e., all domestic customers including those carrying out public, social, assistance and health services according to the definition of art. 7 of the decree) and of non-residential customers consuming less than 50,000 cubic meters/years. In this respect, the legislative decree also foresees that the Ministry of Economic Development (MED) shall determine the criteria for the calculation of the modulation obligations of retail companies. Moreover, the obligations relating to the strategic storage which are currently imposed only to importers coming from Third countries are extended to all producers and importers of gas. The decree provides that the quota of strategic storage shall be determined on a yearly basis by the MED on the basis (also in a non-linear fashion) of the imported volumes and of the supply infrastructure.
- (iii) Regarding public service obligations the legislative decree, besides adopting a definition of vulnerable customers (see below at par. 4.2), provides that “... *in response to public service obligations the Authority continues, for a transitional period, to set reference prices (for vulnerable customers), pursuant to the provisions of Law decree no. 73 of 18 June 2007*” than the distribution and retail companies shall include among their commercial offers.

Compliance with the competences and powers attributed to the Regulator according to the gas directive

For a description of the main competences and powers attributed to the Authority by Legislative Decree no. 93/11 also in the gas sector please refer to Table 3.2.

4.1.6 Dispute settlement

For functions, duties and activities in 2011 to par. 3.1.6 for the electricity sector.

4.2 Promoting competition

4.2.1 Wholesale market

After encouraging signals of recovering in 2010, demand of gas recorded a high reduction in 2011. According to provisional balance published by the Ministry for Economic Development, last year gross domestic consumption was 77.9 G(m³) on the decrease of 6.2%.

In 2011 final consumption resulted slightly lower than 2009, when consumption recorded a reduction of 8%. Demand had a reduction of 5.2 G(m³), showing a negative variation in almost all economic sectors.

Consumption in civil sector (residential and services), that represent approximately 40% of domestic consumption, had a reduction of 8.4%, from 34 G(m³) in 2010 to 31 G(m³) in 2011. The main reasons for this reduction were the mild climatic conditions and economic difficulties that

Italy is going through. There was a reduction in thermoelectric sector too, with a variation of -7% ; industrial sector recorded a negative variation of 1.1% . Even the less intensive sector as agriculture or non-energetic uses (that summed represent less than 1% of total consumption) recorded a negative variation. In particular, agricultural consumption showed a reduction of 8% while the gas for non-energy uses suffered a collapse, equal to -24.6% . The only item on the increase was the automotive, which confirmed the growth trend that distinguishes several years. Also because of the strong and continuous increase in fuel prices, from 2006 to 2010 the automotive sector showed a remarkable development. However the crisis had consequences on this sector too. As a matter of fact last year the variation was just 2.6% while during the previous five years the average increase rate was 10% and in 2010, in particular, the same rate was 16% .

After years of continuous decline, the domestic production of natural gas has recording from three years a constant trend around $8\text{G}(\text{m}^3)/\text{year}$. According to provisional data published by the Ministry of Economic Development, in fact, in 2011 the extraction of gas in the country, reached $8,449\text{ M}(\text{m}^3)$, showing a slight increase of 0.5% compared to 2010. In 1994, the Italian production of gas has reached the maximum with a production slightly above $20\text{ G}(\text{m}^3)$, about one third of domestic consumption at the time. Since then the coverage rate of domestic gas production has dropped to around 11% .

Net imports of gas in Italy last year fell almost $5\text{G}(\text{m}^3)$, from $75,213$ to $70,244\text{ M}(\text{m}^3)$, and thus returning to 2009 levels. According to provisional data of the Ministry of Economic Development, in 2011, gross imports fell to $70,368$ from $75,354\text{ M}(\text{m}^3)$ reached in 2010, also exports fell from 141 to $124\text{ M}(\text{m}^3)$. Considering that the variation of volumes in storage for the year amounted to $777\text{ M}(\text{m}^3)$ - in 2010 volumes in storage was only $522\text{M}(\text{m}^3)$ - and that consumption and network losses are estimated at approximately $1,846\text{ M}(\text{m}^3)$, the value of domestic consumption in 2011 is estimated at $76,071\text{ M}(\text{m}^3)$. The degree of dependence on foreign supplies from Italy has remained essentially unchanged compared to 2010 and equal to 90% .

75% of gas imported in Italy is imported from countries outside the European Union. Most imported gas arrives in our country through pipelines (89%), but the share of gas that arrives by ship increased significantly due to the gradual starting to work at full capacity of terminal of Rovigo, where arrives LNG from Qatar. In fact, in 2011 imports from this country have reached $6.2\text{ G}(\text{m}^3)$ and the considerable share of 8.8% of gas imported in Italy.

Most imported gas came from Algeria, this represent over one third of the Italian demand, in 2011 came to this country $23\text{ G}(\text{m}^3)$, 93% by pipeline in Mazara del Vallo and the rest by ship, regasified at plant of Panigaglia. From Russia came through the entry points of Tarvisio and Gorizia $19.7\text{ G}(\text{m}^3)$, that represent 28% of the total gas imported in Italy. Gas from Libya decreased dramatically last year due to the known political events that happened in this country, from about $9\text{ G}(\text{m}^3)$, that on average in previous years came in Italy through the entry point of Gela, in 2011 the Libyan volumes fell to just $2.3\text{ G}(\text{m}^3)$. Considerable volumes of gas, even at partial compensation of the deficit of Libyan gas, came from European countries: not only the "traditional" quantities from Norway and the Netherlands, but also from Austria, Germany and other EU countries. Overall, the share of gas from Europe imported in Italy in 2011 reached 25% . The remaining 2% of 2011 imports came from other countries (of which 0.4% from Croatia). According to the data (provisional) collected from the Annual Survey on regulated sectors of the Authority, in 2011 the gross imports registered a decrease of 7.2% , falling to $68\text{ G}(\text{m}^3)$ from $73.3\text{ G}(\text{m}^3)$ reached in 2010. In preliminary figures released by the Ministry of Economic Development the decrease appears to be slightly less strong and equal to -6.6% . 5% of the total imported gas was purchased from European Gas Exchange.

Table 4.3 Development of the wholesale market

Year	Total Demand ^(A) G(m ³)	Peak Demand ^(B) M(m ³)/day	Production G(m ³)	Import Capacity G(m ³)/year				No. of companies with a production share and importation capacity >5%	No. of companies with a share of available gas >5	Share of the three leading wholesalers
				Total	Priority access for transit ^(G)	Priority access for LT contracts	Unreserved Access			
2001	125.1	n.d.	15.5	n.d.	n.d.	n.d.	n.d.	n.d.	2	68.2%
2002	111.8	n.d.	14.3	84.0	0.5	77.3	4.2	3	3	67.4%
2003	123.6	n.d.	13.9	84.8	0.5	78.8	3.1	3	3	63.8%
2004	127.3	386	12.9	88.7	0.5	84.6	2.1	3	3	62.4%
2005	138.3	421	12.0	90.6	0.5	73.5	16.7	3	3	66.7%
2006	134.3	443	11.0	92.3	0.5	74.5	17.3	3	3	66.5%
2007	136.1	429	9.7	98.4	0.5	86.1	11.8	3	3	63.8%
2008	151.5	410	9.3	100.3	0.5	96.1	3.7	3	3	57.1%
2009	147.2	436	8.0	110.9	0.3	102.6	8.0	3	4	49.2%
2010	173.5	459	8.3	116.0	0.3	103.1	12.6	3	5	42.3%
2011	178.9	401	8.4	116.3	0.2	103.0	13.0	3	3	42.1%

(E) Gas volumes sold in the wholesale and retail national markets, inclusive of any resale

(F) Injection peak reached on 26/01/2004, 19/12/2005, 25/01/2006, 18/12/2007, 18/02/2008, 21/12/2009, 17/12/2010 and 25/01/2011; the volumes shown include injections, deliveries from storage facilities, losses and consumption for network operation.

(G) In Italy transits receive the same treatment as all other transport; the values included in the table refer to a transit contract with priority access under a long-term contract.

Source: AEEG, from data supplied by Snam Rete Gas or declared by other operators.

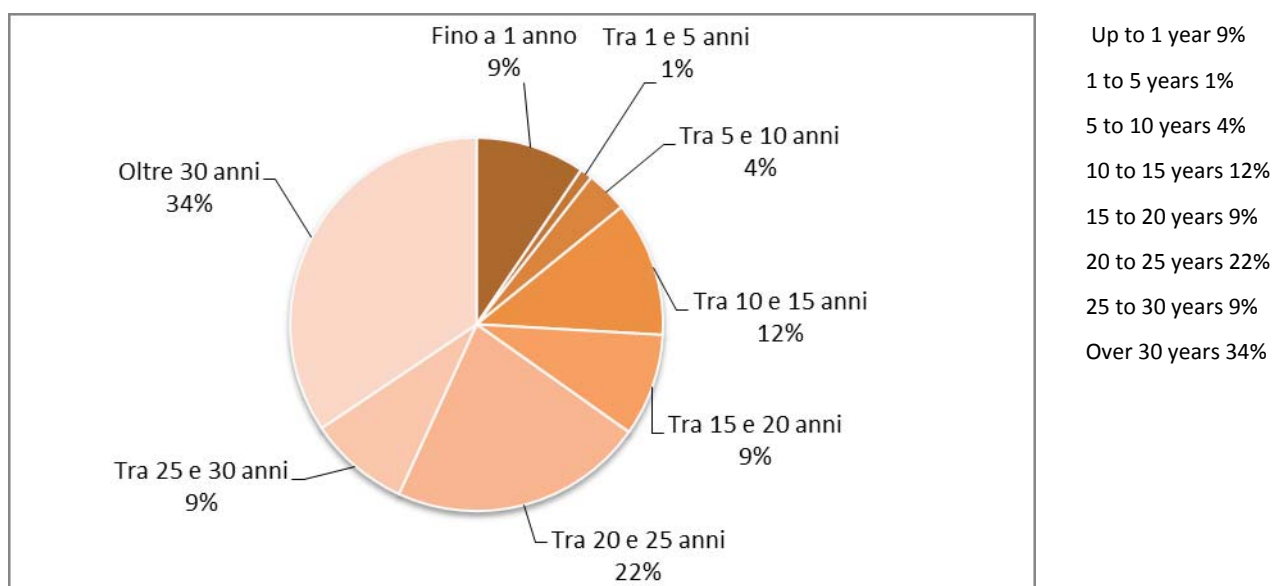
As in previous years the groups⁹⁸ who have a share of over 5% of the total gas supplied (produced or imported) are Eni, Enel and Edison, which together account for 74.3% of the total, it should be noted, however, that in 2009 the same share was 73.4%. Other operators hold from 2% upwards of the gas imported gas and/or produced in Italy. The same three groups also have more than 5% of the available gas, a share similar to that on gas supplied.

With 28.2 G(m³) of gas imported and a market share of 41.4% (40% if calculated on ministerial data), Eni is also dominant in the import, as well as in domestic production. Its share remains in fact predominant and still 24 percentage points higher than the first follower. For the first time in many years, the company's share is higher than the previous year (it was 39.2% in 2010), after continuous reduction recorded in the past for the enforcement of antitrust ceilings set by Legislative Decree no. 164 of 23 May 2000, no more effective from 2011. Last year, in particular, imports of Eni decreased only 1.9%, having dropped to 28.2 G(m³) from 28.7 G(m³) of 2010. In 2011, Edison remains in second position in the ranking of importers although the quantities purchased are reduced by 12.9% compared to 2010. Also other importers recorded significant decreases: -9.8% for Enel Trade, that remained in third position, -22.6% for Sonatrach Gas Italia - 32.9% for Enoi. The drastic fall in imports of Sorgania, collapsed by 80% compared to 2010, was the reason of the exit of companies from the ranking of the top twenty Italian importers. Besides

⁹⁸ In investigations into the gas market a shareholding in a corporate group is defined in accordance with art. 7 of Law 287/1990 of 10 October 1990. Very briefly, membership of a group is established even if the investing company has *de facto* controlling stake in the investee.

these very important negative variations, there were at least three cases of significant increase: Synergie Italiane (+44%), Gas Plus Italiana (+64.1%) and Egl Italia (+62.9%). The top three importers cover the 72.4% (69.7% on the total value of imports of ministerial source) of the total gas supplied abroad by Italian operators. Even this share increased compared to 71.7% in 2010.

Figure 4.3 Import contract in force in 2011 broken down by full duration.

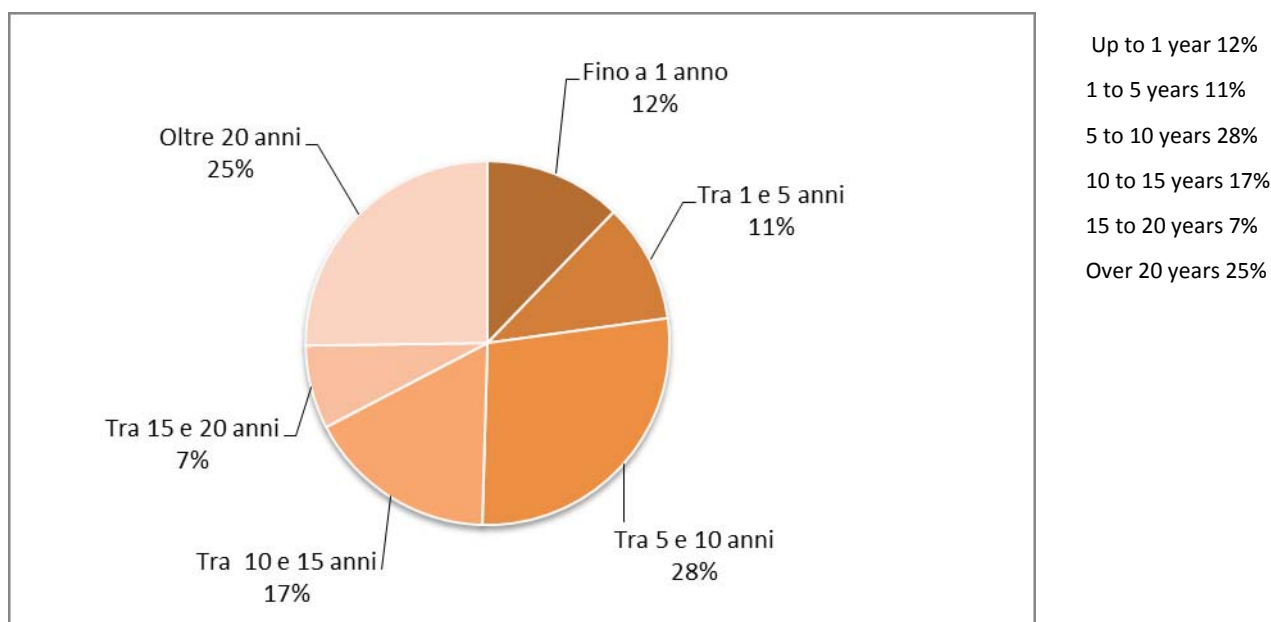


Source: Annual Survey on regulated sectors.

An analysis of active import contracts in 2011 by total duration (Fig. 4.3) confirms that import activity is based, as in previous years, on long-term contracts. Over 60% of these contracts are for more than 20 years and a further 24% are for a duration of 5–20 years. With respect to the previous year, the weight of spot imports, which are based on agreements of at most one year's duration, fell by one percentage point, having gone from 10.6% to 9.5%.

Please note that the incidence of these contracts is evaluated in order to exclude (by an estimate) the Annual Contract Quantity of spot contracts that didn't lead to imports since the Italian operator purchasing the gas then sold it abroad directly.

About the residual duration, import contracts in force in 2011 (Figure 4.4) have a considerable time to run: slightly less than one third will lapse in fifteen or more years and more than half will expire in ten years or more. 23% of the existing contracts will end within the next five years. Also in this case the incidence of contracts with a less year duration was revised as described just above.

Figure 4.4 Import contracts in force in 2011 broken down by residual duration.

Source: Annual Survey on regulated sectors.

In 2011 total gas demand, in terms of volumes sold on the wholesale market (thus including resales), about retail market and self-consumption rose to 178.9 G(m³), recording an increase of 3% compared to 2010 (Table 4.3). There are five operators with a share more than 5%. The groups and their shares are: Eni (22.3%), Edison (10%), GDF Suez (9.8%), Enel (7.7%) and A2A (6%). As last year the first three groups together cover 42.1% of total demand. In the following section we see in detail sales and prices on wholesale market.

4.2.1.1. Price monitoring in the wholesale market

The sales gas market data (wholesale and retail market), as every year, are based on the initial preliminary Annual Survey conducted by the Authority on the evaluation of the regulated sectors for previous year. The annual survey concerned 431 sellers enrolled to operators register that declared to sell gas at wholesale or retail market in 2011. Of 380 sales operators which replied to survey, 40 sold gas only in wholesale market (called “pure wholesalers”), 205 sold gas exclusively to retail market (“pure retailers”), 103 sold gas to other suppliers as well as directly to the retail market (called mixed operator) and 32 said they have not been active in 2011.

Sales in the wholesale market totalled 98.4 G(m³) in 2011, of these, 28% has been sold by pure wholesalers and the other 72% by sellers at wholesale and final market.

The number of wholesalers increased to 143 units compared from 140 of last year. In recent years the level of concentration in that market has steadily declined and in 2011 fell below 30%. In 2011 the share of the first 3 companies Eni, Edison and Sinergie Italiane, decreased to 28.2% from 31.1% in 2010 (was 39.2% in 2009), the share of first 5, which also includes Enel Trade Suez and GdF, dropped to 38.7% from 40.5% in 2010 (it was just above 50% in 2009). The Herfindahl index calculated only on the wholesale market in 2011 was equal to 0.049, a value well below the 0.1 considered as signal of low concentration. It was below this value for two years: the values for 2010 and 2009 were, respectively, of 0.056 and of 0.083.

The price charged by mixed operator was 31.15 c€/m³ that is slightly more than the average price charged by pure wholesalers, equal to 29.56 c€/m³. Finally the price charged on wholesales market was 30.71 c€/m³.

Table 4.4 Sales and prices on wholesales market in 2011.

M(m³); c€/m³

Operators	Number	Sales	Price
Pure wholesalers	40	27,235	29.56
Mixed operators	103	71,153	31.15
Total	143	98,388	30.71

Source: Annual Survey on regulated sectors.

Only recently the Italian wholesale gas market has a Gas Exchange, that is a regulated and transparent market for the exchange of quantities of gas. Before that, the operators could use the Virtual Exchange Point (PSV) an electronic platform managed by the main operator of the transport network - Snam Rete Gas - for the exchange of capacity and quantities of gas, based on contracts over the counter.

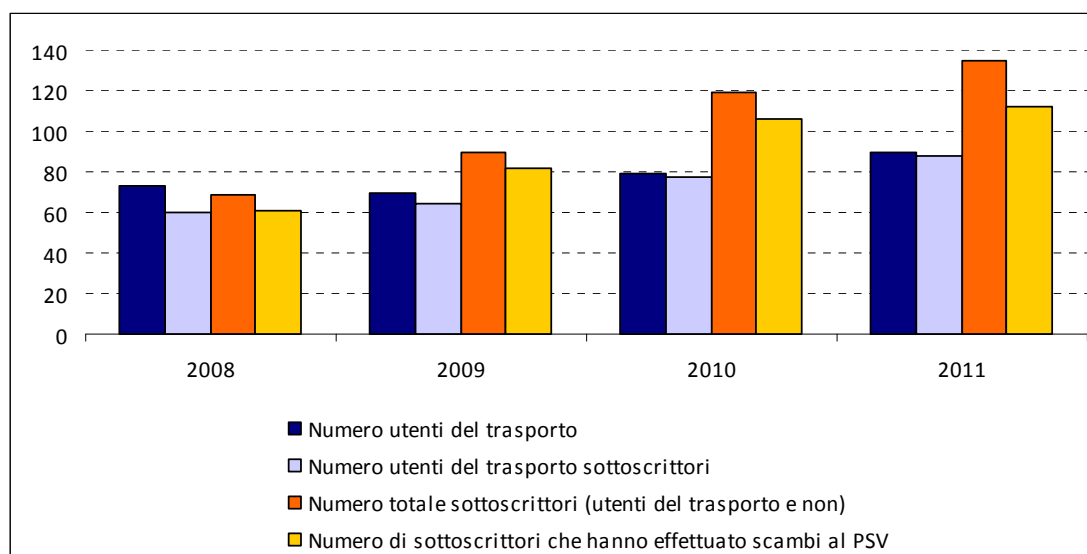
Virtual Trading Point

Under the current legislation, gas operators can trade gas injected to the national network at a virtual point located, conceptually speaking, between entry and exit points on the network: the Virtual Trading Point (PSV). The PSV, as a secondary market, provides operators with a useful commercial balancing tool and the possibility of replicating the effects of daily capacity trading, for example in the event of interruptions or reductions in capacity from a given source of supply. Transactions at the PSV are conducted under bilateral over-the-counter contracts. The PSV cannot, however, be equated with a gas exchange, which in Italy was only recently established under the GME.

In recent years the PSV has considerably increased in importance, in terms both of volumes traded and number of transactions. This is also due to the provisions issued by the Authority and the standardization of contracts. According to these measures since November 2006 traders are enabled to conduct transactions at the national hub without at the same time being users of the transport system. In 2011, 112 operators exchanged, sold and purchase gas on PSV. Of these, 27 were pure traders, in that they were not users of transport system.

Also in 2011 the operators who exchanged on PSV have increased from 106 in 2010 to 112, but we observe for the first time a slightly decrease of pure trader, they decreased from 32 to 27 units, this is probably linked to less profitable outlook on gas market due to a consumption contraction.

Figure 4.5 Number of operators from 2008 to 2011



Number of transport users / Number of subscribed transport users / Total number of subscribers (users and non-users of transport) / Number of subscribers who made PSV exchanges

Source: Annual Survey on regulated sectors.

Figures 4.6 and 4.7 show the gas transaction history occurred at entry point of national gas system and the exchange recorded at PSV until March 2012, in term both of volumes and number of transaction. In the graph are grouped separately the import at entry point, the delivery of liquefied gas at PSV and the exchange recorded at PSV that result from transaction on spot market and OTC.

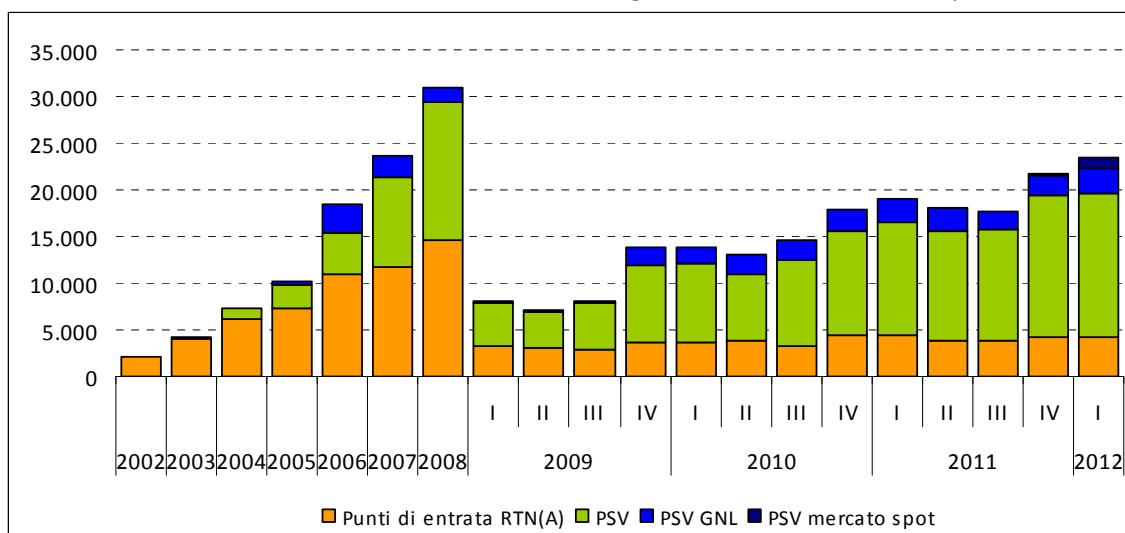
The import at entry point, that include trade and customs exchanges⁹⁹, are grouped in a single item where are summed the transfers of Tarvisio, Passo Gries, Mazara del Vallo, Gorizia, Gela e Panigaglia, these last only until November 2005, afterward these are included in PSV GNL item.

PSV GNL includes gas deliveries (in terms both of volumes sold and number of daily deliveries) that occur at the Panigaglia regasification terminal by the company GNL Italia and since October 2009 those that take place at Porto Viro (Rovigo) regasification terminal by the company Terminale GNL Adriatico.

⁹⁹ Considering only commercial transactions, the entry point of Gorizia became inactive since October 2004, Gela results active from October 2004 to November 2005 and from April 2010 to February 2011; Mazara is inactive from December 2005 to September 2008.

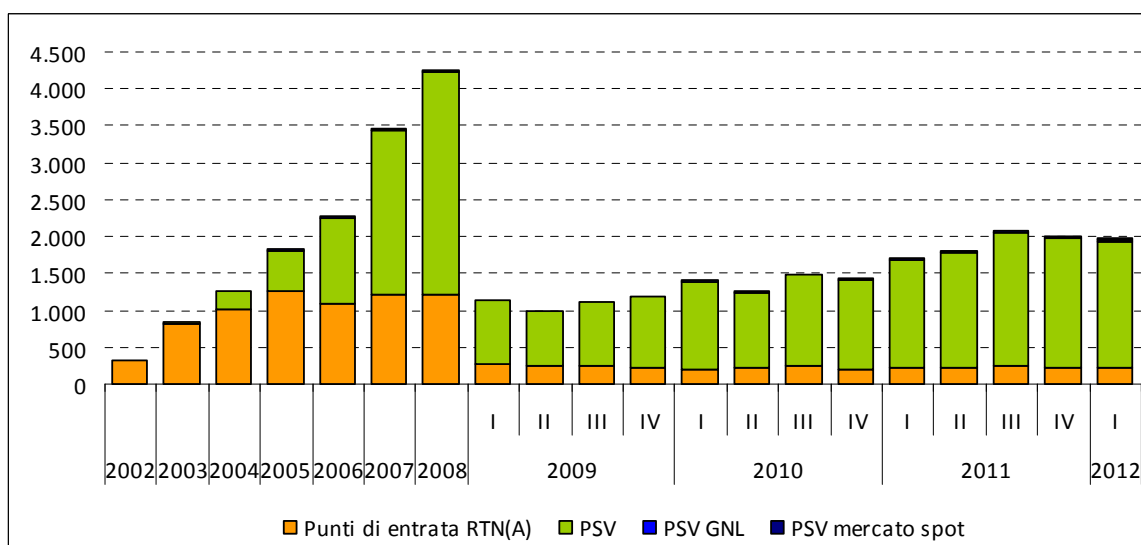
Figure 4.6 Volumes traded on National Entry Point.

M(m³) standard of 38.1 MJ; the transactions refer to gas fed in to the network by the seller



(H) RTN includes all transactions, trade and custom exchange.

Source: AEEG on Snam Rete Gas data.

Figure 4.7 Number of transactions on National Entry Point

(I) RTN includes all transactions, trade and custom exchange.

Source: AEEG on Snam Rete Gas data.

With “PSV spot market” we included volumes traded in the new platform for spot market organized under GME which add on existing P-GAS and M-GAS. With Authority’s Resolution ARG/gas 45/11¹⁰⁰ (and its implementation) was made official the new platform for gas market balancing (PB-GAS) organized under GME, this will allow a gradual transition from balancing “in storage” in a more consistent mechanism with European gas market integration that is “market balancing”. Thanks to the new PB-GAS the Responsible for Balancing Services and users can find resources required to balance the system. The platform started in December 2011 but only since

¹⁰⁰ Resolution of 14 April 2011.

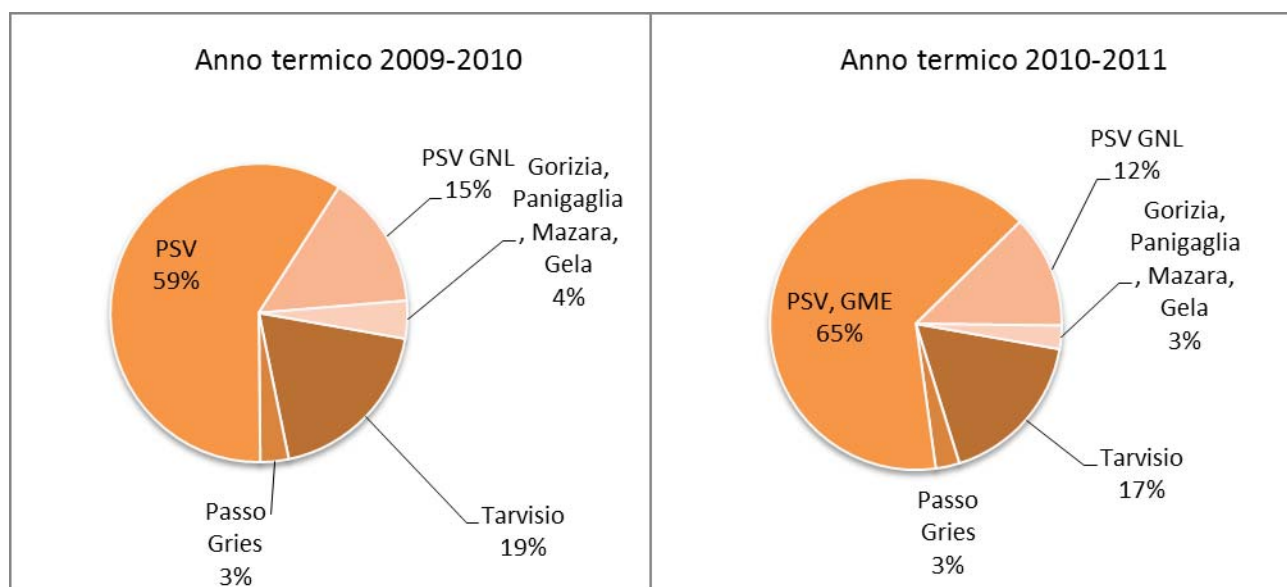
01 April 2012 the shipper can make bids. Therefore, for the first four month, which is the period in the graph, the demand side is based only on Snam Rete Gas demand as Responsible for Balancing Service.

A comparison between thermal years 2009-2010 and 2010-2011 (Fig. 4.6) shows how – similarly to previous years- PSV are growing to the detriment of the entry point of national transport network which share are decreasing over the time. Also in 2011 PSV-GNL grew up (+7%), although this rate is lesser than in 2010, when the regasification terminal of Rovigo gradually started to work at full capacity. More than a year after Gas Exchange birth, the volumes traded on spot market are still slight: in thermal year 2010/2011 PSV cover over than 64% of transaction in terms of volumes, the share increases to 77% with the exchange on PSV-GNL. The huge develop of trade at PSV (+42% in 2011), and PSV-GNL too, is a clearly measure of the potential and importance of the development of an efficient Gas Exchange, capable to came out the proper price signals.

Since October 2010, when M-Gas started, were traded almost 18 M(m³) against 1.4 G(m³) of volume traded on the new platform for balancing. The higher importance of PB-GAS, in terms both of volumes traded and number of exchange, has partly been a result of the market mechanism, this establishes the obligation for shippers to make sales and purchase bids. In conclusion, the current importance PSV is largely due to a less liquidity of Gas Exchange and the initial phase of the platform for balancing.

Figure 4.8 Breakdown of volumes traded on national entry point foreign interconnected and PSV.

Comparison between thermal years 2009-2010 and 2010-2011



Source: AEEG on Snam Rete Gas data.

Gas Exchange

The first step towards the creation of a Gas Exchange in Italy was Decree Law 7 of 31 January 2007, confirmed as Law 40 of 02 April 2007. This established the obligation:

- for holders of natural gas extraction concessions, to transfer quotas of domestically produced gas due to the state;
- for importers, to offer a quota of imported gas on the regulated capacity market.

The arrangements for the transfer of the quotas were then defined with later provisions issued by the Ministry for Economic Development and the Authority and adopted between 2008 and 2009. With Law 99 of 23 July 2009, the economic management of the gas market was entrusted solely to the GME which, under the same law and within 6 months of its entry into force, was required to take on the management of sales and purchase bids/offers (and all related services) on an economic merit basis.

However, the initial core of the Exchange was actually created last year, with the Ministry for Economic Development's decree of 18 March 2010 setting up the Trading Platform for imported gas, called "P-GAS". The decree established that with effect from 10 May 2010 importers should place their obligatory quotas of imported natural gas for transfer solely on the new Trading Platform (in the "import segment"). The decree also established that further offerings of gas by operators other than those bound by the obligations imposed by Decree Law 7/2007 may be admitted to the Platform. Indeed, operators authorised to trade on the PSV are also entitled to do so on the P-GAS, where the products traded are contracts with delivery periods of one month or one thermal year. The GME simply acts as platform operator and not as central counterparty: guarantees, billing and payments are handled directly by the operators selling the gas. Trading is continuous for the import quotas transferred on a compulsory basis on the P-GAS.

Since August 2010, trading in the domestically produced gas quotas due to the state has been added to trading in imported gas, with gas produced in Italy traded in the "quota segment" of the P-GAS. Once again, the GME is not the central counterparty and operates solely as organiser and operator of the platform, while trading is conducted on an auction basis.

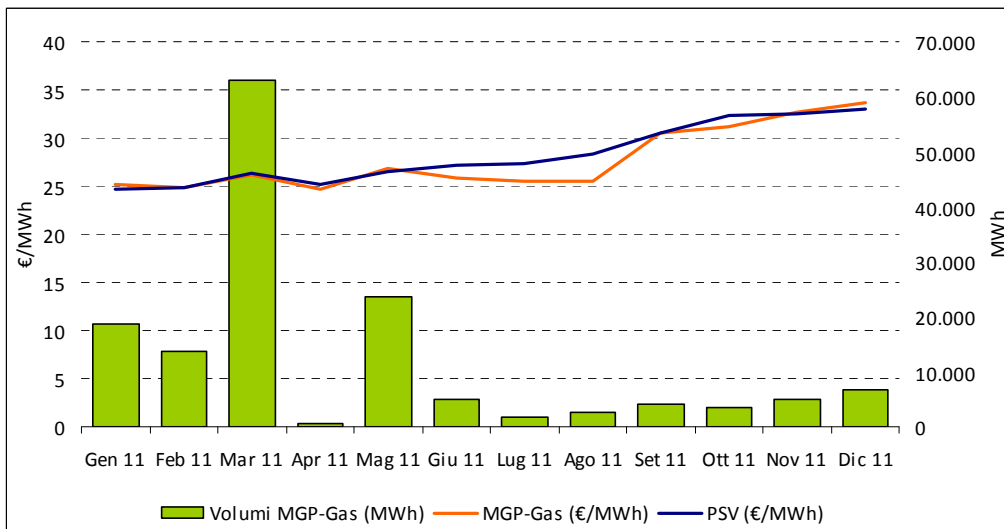
The actual spot market for natural gas, with the GME acting as central counterparty, was launched in October 2010 with the creation of the M-GAS. On this market, operators authorised to conduct transactions on the PSV may buy and sell quantities of natural gas on a spot basis. This market is divided into:

- MGP-GAS (gas day-ahead market), in which trading takes place with sales and purchase offers/bids for the following gas-day;
- MI-GAS (Infra-Day gas market), in which gas for the same gas-day is traded.

In 2011 there were 125 sessions on MGP-GAS during which there was at least a transaction in continuous trading for a total of 178,028 MWh traded. The average price recorded was 27.68 €/MWh. Figure 4.9 compares prices at PSV for the daily contract and those seen in the Exchange for 2011. As the figure e shows, prices on the Exchange are substantially consistent with prices at PSV (where trading is bilateral and private, in the sense that Snam Rete Gas, that operates the PSV, does not act as central counterparty): the average price recorded at PSV was 28.21 €/MWh. Regarding the volumes traded at MGP-GAS we can see a steep fall after March 2011. In July and afterward there was a slow recovery.

Figure 4.9 Daily contract prices on PSV and on MGP-GAS and volumes traded on MGP-GAS in 2011

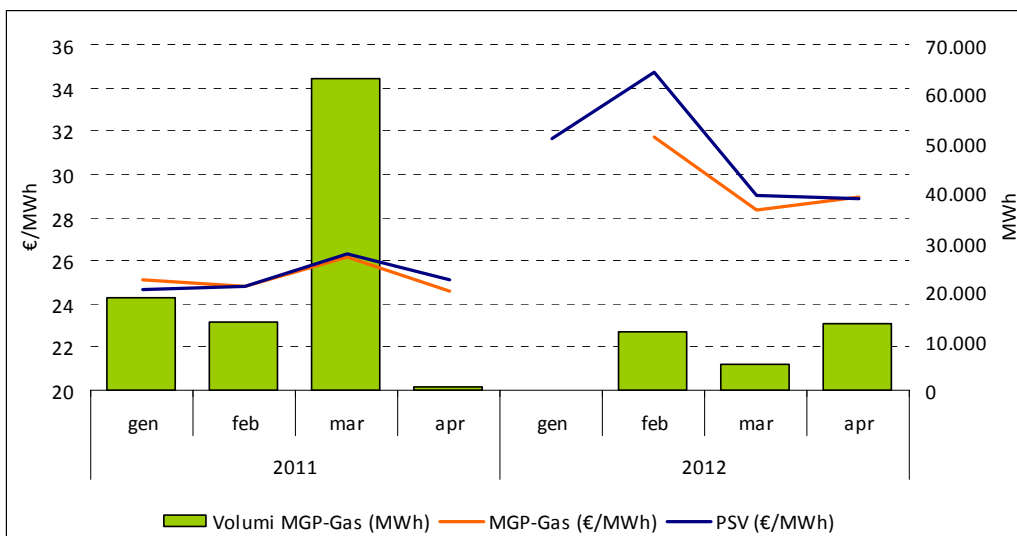
€/MWh, MWh



Source: Platts for PSV, GME for MGP-GAS.

Figure 4.10 Daily contract prices on PSV and on MGP-GAS and volumes traded on MGP-GAS. Comparison between January-April 2011 and January-April 2012.

€/MWh; MWh



Source: Platts for PSV, GME for MGP-GAS.

Figure 4.10 shows the same comparison between MGP-GAS and PSV prices for period January-April 2011 and 2012. Prices on the two markets show a high correlation and the MGP-GAS price is slightly lower than PSV price.

More important is the comparison of volumes traded in the Exchange. In the first four months of 2011 the volumes traded totalled 96.020 MWh, in the same period of 2012 this quantity records a very high cut resulting 24,005 MWh. This reduction is due to compulsory balancing market rules: it is an ex-post session direct to support storage gas trading where Snam Rete Gas is central

counterparty. This new market was added on December 2011; from April 2012 are authorized exchanges between shipper and not only between shipper and Responsible for balancing service. Thanks to opening of this system the volumes traded on MGP-GAS are reduced.

4.2.1.2 Monitoring the level of transparency, including compliance with transparency obligations, and the level and effectiveness of market opening and competition.

Measures to promote competition on wholesale market

In 2011 have been implemented the provisions of Legislative Decree 130/10 that introduced, instead of so-called “antitrust ceilings”¹⁰¹, by now out of date, new provisions that have the aim to increase competition in the gas natural market by the development of storage infrastructure in favour of industrial and thermo-electrical operators. Legislative Decree 130/10 entrusted the Authority with most of its implementing procedures. These started in 2010-2011 with Resolutions ARG/gas 193/10¹⁰² and ARG/gas 13/11¹⁰³. In particular this year was completed the *rights and obligations* framework of all operators involved in the so-called “temporary measures/virtual storage”, in particular for those dispositions (art. 9 of Legislative Decree 130/10) that advance, in virtual form, for industrial party that finance the realization of new capacity storage, the same benefits that would occur if the storage capacity was immediately available. This mechanism is valid up to the progressive availability of the new storage capacity and for no more than five years. These temporary measures are paid out by GSE, according to Legislative Decree 130/10 and are two different types:

- Financial for 2010-2011 and 2011-2012, giving to financing industrial party, in relation to its own share of capacity storage financed, and not yet available, the difference between natural gas quotations in winter and the quotations in summer for the same thermal year.
- Physical (virtual storage) since April 2012 for the following storage years, allowing to financing industrial party to deliver the gas in summer and obtain its return in winter under discounted regulated remuneration.

With Resolution ARG/gas 50/11¹⁰⁴ and ARG/gas 79/11¹⁰⁵ the Regulatory Authority accepted, according to its competences and with a wide sharing among shareholders, GSE’s proposals concerning:

- The contract between GSE and financing industrial party, that is, between the party that give temporary measures and financial industrial party.
- The contract between GSE and the virtual storage operator that is authorized to operate on European gas market and who provide, in physical terms, to virtual storage services to financial industrial party, on behalf of GSE, withdrawing gas in summer to re-delivery it in following winter.
- The competition practice with which the GSE annually select the virtual storage operators (in March 2012 for thermal year 2012-2013).

¹⁰¹ The limit to network injections and sales to final customers as provided by Legislative Decree 164 of 23 May 2000.

¹⁰² Resolution of 04 November 2010

¹⁰³ Resolution of 17 February 2011.

¹⁰⁴ Resolution of 28 April 2011

¹⁰⁵ Resolution of 23 June 2011.

For the coming physical service of virtual storage since April 2012, the Authority defined with Resolution 20/2102/R/gas¹⁰⁶ the maximum amounts due for compulsory bidding in storage operators selection procedures, for at least 50% of the service to allocate, referable to the subject complies with the implementation of the art. 5 paragraph 1 of Legislative Decree no. 130/10 (that is Eni). Such procedures are open also to industrial financing party that, operating as virtual storage firms too, can optimise in terms both operatives and commercial the provisions of Legislative Decree no. 130/10. According to contracts approved by Authority the GSE gave 66 million of euros to the industrial financing party concerning temporary financial measures for years 2011 and 2012; furthermore it provisioned, for year 2012-2013, availability for physical virtual storage services equal to almost 560 M(m³), at a weighted average price of almost 9.5 c€/m³. To improve market liquidity the 560 M(m³) provisioned by GSE will be return, from virtual storage operator to industrial financing party, next winter and will sell on GME platforms. Regarding this aim the Authority approved, with Resolution 67/2012/R/gas¹⁰⁷, the proposal of GME and GSE concerning the procedures to bid this gas on GME platforms, considering however, once fulfilled the conditions of compulsory bid, the possibility to sell that gas on bilateral basis. The approved bid conditions are integral part of the contract between GSE and the industrial financing party. Before this, the Authority approved, with Resolution 54/2012/R/gas¹⁰⁸, the proposal of regulation of GSE regarding the annual transfer of storage capacity to the market and the proposal to modify of Storage codes of Stogit. With this procedures the operators can allocate the capacity that, beginning from next year, will regard the obligation to gas transfer referable to the operators that profited from temporary measures (in particular 10% of the capacity of these temporary measures, for a period of time double respect to the same capacity that has remained as “virtual capacity”). For 2012 these procedures provide for the allocation of 50% of quantity for sale, equal to 90 M(m³) at a price 1.7 times the storage remuneration.

4.2.2 Retail market

A total of 380 companies registered at the operators register have responded to the Annual Survey, 205 of which have sold natural gas only to final clients, so being classified as pure sellers. As specified in the introduction of the wholesale market paragraph, mixed operators are 103.

Table. 4.5 Sales and prices on the retail market in 2011

M(m³); c€/m³

Operators	Amount	Sales	Price
Pure sellers	205	15,294	44.57
Mixed operators	103	52,720	37.70
Total	308	68,014	39.24

Source: Annual Survey on regulated sectors.

Slightly more than 68 G(m³) of natural gas have been sold on the retail market, 22% of which by pure sellers, the remaining 78% by operators active in the wholesale market too. The average price for pure sellers is 44.57 c€/m³, significantly higher than the average price offered by mixed

¹⁰⁶ Resolution of 02 February 2012.

¹⁰⁷ Resolution of 01 March 2012

¹⁰⁸ Resolution of 23 February 2012.

operators (37.70 c€/m³, see Table 4.5). The spread is partially due to the sum of the mark-ups applied along the value chain, but mostly depends on the different types of consumers served by the two operators. Indeed, mixed operators tend to serve higher-consumption final clients, whether industrial or not; these clients are able to obtain a lower price and often they are directly connected to the network (so that the distribution cost results excluded from their price). On the other hand, pure sellers serve mostly the mass market, the latter characterized by a higher amount of smaller clients that pay a higher price, comprehensive of the distribution cost. In 2011 the number of operators on the retail market has grown by 3 units, reaching a total amount of 308. The total volume of natural gas sold on the market has experienced a decline from 72.2 G(m³) in 2010 to 68 G(m³) in 2011, the same level reported in 2009. As a consequence of the drop in natural gas demand and the simultaneous growth of the number of operators, the average unit volume has decreased by 6.7%, from 237 to 221 M(m³). Despite of the natural gas consumption decline, a significant number of mergers and acquisitions took place in 2011. The following list reports the most remarkable corporate operations:

- The acquisition by Energia Ambiente Servizi of the final consumption sales activity from AICE, in the month of May;
- The incorporations of Travagliato Energia in Toscana Energia Clienti, of ATG in Energia Ambiente Servizi and of Sadori Reti in Hera Comm Marche, all of them in the month of July;
- The incorporation, in August, of GdF Suez Energy Management in GdF Suez Energia Italia. This operation is part of the wide and complex corporate operations deriving from the dissolution of the joint venture between Acea and GdF Suez Energia Italia that have affected the electricity market more than the natural gas market;
- The incorporation of Unogas Toscana in Unogas Energia in September;
- The assignment to Energia Ambiente e Servizi of the sales activities from Genia Energia in October.

In order to correctly estimate market shares and level of concentration of the retail market it is necessary to analyze the actions of the whole corporate groups, better than the ones of every single company involved (Table 4.6). The retail market stays very concentrated: the first three groups control the 49.5% of the market. The sum of their shares is increasing for the first times after several years: in 2010 their share reached 47.8%. Even when considering the first 5 operators, the concentration remains remarkable: in 2011 the top-5 market share declined to 60.9% from 61.2% reported in 2010.

As underlined in the wholesale market paragraph, the incumbent's (Eni) market share has experienced a growth for the first time after many years, increasing from 24.7% in 2010 to 26.8% in 2011. Eni is consolidating its leadership in the market: the spread between Eni and the second operator's market share has increased from 11.5% in 2010 to 15% in 2011, due to the growth of Eni's sales (+2.4%) and the simultaneous Enel's sales drop (-15.2%). The increase by 2.4% of its sales lets Edison keep the third position, slightly reducing the distance from Enel. During 2011 A2A Group has gained one position in the ranking, Iren has overtaken Hera and finally Sorgenia (that held the 11th position in 2010) has left the group of the first 20 operators.

Table. 4 .6 Top twenty groups by retail market share in 2011Volume (M(m³))

GROUP	VOLUME	MARKET SHARE
Eni	18,237	26.8%
Enel	8,035	11.8%
Edison	7,403	10.9%
Gdf Suez	4,847	7.1%
A2A	2,915	4.3%
E.On	2,708	4.0%
Iren	2,317	3.4%
Hera	2,607	3.8%
Royal Dutch Shell Plc	1,647	2.4%
Ascopiave	1,167	1.7%
Gas Plus	687	1.0%
Bg Group Plc	627	0.9%
Estra Spa	563	0.8%
Utilità Progetti e Sviluppo	506	0.7%
Unogas	481	0.7%
Gas Natural Sdg	464	0.7%
Linea Group Holding	460	0.7%
Acegas-Aps	455	0.7%
Amga - Azienda Multiservizi	449	0.7%
Dolomiti Energia	408	0.6%
Others	11,030	16.2%
TOTAL	68,014	100.0%

Source: Annual Survey on regulated sectors

From the first provisional data processing related to the Annual Survey, it follows that in 2011 the natural gas retail market counted 20.6 millions of clients, 92.5% of which is represented by residences, 1.2% by central heating, 5.1% by trade and services sector, 1.2% by industrial clients and less than 0.5% by thermoelectric generation (Table 4.7). In terms of volumes, obviously, the related proportions tend to reverse: including self-consumption, the domestic sector has absorbed 21% of the total natural gas consumption, namely 16.9 G(m³), central heating has absorbed 3.2 G(m³) (4%), trade sector 6.6 G(m³) (8.2%), industrial sector 20.8 G(m³) (25.8%) and power generation 33.1 G(m³) (41.1%). Moving from the domestic sector to those sectors that require natural gas as an input of a production process, the share of natural gas volume acquired on the free market rises. Indeed the above mentioned share is equal to 11.4% for the domestic sector, 38% for central heating, 71% for trade and services, 93.7% for industry and 64.4% for thermoelectric generation (the latter value is affected by self-consumption).

Table 4.7 Retail market sorted by sector in 2011Clients (thousands) and Volumes (M(m³))

	RESIDENTIAL	CENTRAL HEATING	TRADE AND SERVICES	INDUSTRY	POWER GENERATION	TOTAL
CUSTOMERS						
Self-consumption	1	0	1	0.34	0.06	3
Free market	1927	65	479	101	0.66	2573
Market with a reference price	17,079	188	573	138	0.09	17,977
TOTAL	19,007	253	1053	239	0.82	20,554
VOLUMES						
Self-consumption	6	9	89	644	11,788	12,536
Free market	1930	1216	4695	19458	21,314	48,613
Market with a reference price	14,923	1979	1830	660	9	19,400
TOTAL	16,858	3204	6613	20,762	33,111	80,549

Source: Annual Survey on regulated sectors

A drop in consumption took place in 2011 in the residential, central heating and production sectors. The decrease registered is respectively 8.4% for domestic consumption, 11.8% for central heating, 4.7% for industry and 7.4% for power generation. A countertrend has emerged for trade and services consumption that rose by 2.4%. Nonetheless, conclusions are significantly different when considering the share of natural gas acquired on the free market. Except industry and power generation, all sectors have experienced a rise in the volumes of natural gas acquired on the free market. In details, the growth registered is 30% for residential, 2.2% for central heating and 3.7% for trade and services. The drop for industry and power generation was respectively equal to 6.9% and 3.4%.

A deeper analysis of the sales (sorted by consumption sector, net of self-consumption, and client dimension, as in table XX) confirms that clients tend to move to the free market as their consumption volumes increase. It is worth to clarify that the existence of clients and related volumes in classes of consumption over 200,000 m³ in the market with a reference price determined by the Authority is due to those operators that decided not to change supplier, even if permitted. While in 2010 a gradual contraction of these consumption classes on the market with a reference price took place, 2011 results show a countertrend: 19.2 G(m³) were sold with a reference price to clients below 200,000 m³, while volumes sold to upper consumption classes have been equal to 173 M(m³), of which 134 M(m³) have been sold to non-residential consumers. The latter volumes result significantly higher than the previous year, when they were respectively 110 M(m³) and 61 M(m³).

Table. 4.8 Retail market sorted by client's type and dimension in 2011M(m³)

CONTRACT TYPE AND SECTOR	CLIENTS SORTED BY YEARLY CONSUMPTION CLASS						TOTAL
	< 5000	5000- 50,000	50,000- 200,000	200,000- 2,000,000	2,000,000- 20,000,000	> 20,000,000	
MARKET WITH A REFERENCE							
PRICE	15,129	3508	590	127	46	0	19,400
Residential	14,211	679	25	5	4	0	14,923
Central heating	230	1496	222	31	0	0	1,979
Trade and services	551	992	203	67	17	0	1,830
Industry	139	341	138	24	19	0	660
Power generation	0	0	2	1	6	0	9
FREE MARKET							
	2337	2863	2162	5143	8323	27,786	48,613
Residential	1680	152	45	35	18	0	1,930
Central heating	47	681	380	102	5	0	1,216
Trade and services	517	1438	896	1121	717	8	4,695
Industry	94	591	833	3693	6669	7,578	19,458
Power generation	0	1	7	191	915	20,200	21,314
TOTAL	17,467	6371	2751	5270	8369	27,786	68,014

Source: Annual Survey on regulated sectors

4.2.2.1 Price monitoring in the retail market

A provisional analysis of the data collected in the Authority's 2011 survey shows that the average price of gas net of taxes and weighted by volumes sold, as applied by retailers or wholesalers operating in the retail market, was 39.24 c€/m³ (Table ..). In 2010 was 34.85 c€/m³. Overall, the cost of gas in Italy rise by 12.6%, back to the values of the price of 2008, but with significant differences between free market and reference price market. Customers on reference price market paid an average of 50.43 c€/m³, compared with 34.78 c€/m³ for free market customers, giving a price differential of around 16 c€/m³. No more different to maximum value of about 18c€/m³ reached in 2009. Because of the price on protected market rose, in absolute value, more than in free market the price gap between two markets is increased respect to 2010, returning around 2007 levels.

The price trend on two markets is mostly due to the changes happened on retail market. In particular for the changes in the composition of volume sold in the two markets between the different classes of customers. Other reasons are: the average size of customers, which is higher on the free market, in addition to the greater presence in the free market of customers directly connected to the network¹⁰⁹, which do not pay distribution costs.

¹⁰⁹ 96.5% of consumption in sector "domestic+condominium+services" is withdrawn to distribution network, while 81.5% of consumptions in "industry+electric generation" sector is directly withdrawn from national or regional network transport.

Table 4.9 Average sales prices net of taxes in the retail marketc€/m³;

CUSTOMER AND CONTRACT CATEGORY	2007	2008	2009	2010	2011
REFERENCE PRICE MARKET	43.15	47.36	48.84	44.62	50.43
Consumption lower than 5,000 m ³	44.59	48.57	49.49	46.44	52.59
Consumption of 5000 to 50,000 m ^{3 (A)}	–	–	–	–	43.14
Consumption of 50,000 to 200,000 m ^{3 (A)}	–	–	–	–	42.63
Consumption of 5,000 to 200,000 m ^{3 (A)}	39.16	43.55	46.57	38.27	43.07
Consumption of 200,000 to 2,000,000 m ³	33.75	38.90	46.30	34.71	37.87
Consumption of 2,000,000 to 20,000,000 m ³	33.28	38.89	36.04	29.00	30.66
Consumption more than 20,000,000	–	–	–	–	–
FREE MARKET	28.13	36.01	30.89	30.56	34.78
Consumption lower than 5,000 m ³	41.01	44.62	43.77	46.97	53.08
Consumption of 5,000 to 50,000 m ^{3 (A)}	–	–	–	–	44.78
Consumption of 50,000 to 200,000 m ^{3 (A)}	–	–	–	–	40.55
Consumption of 5,000 to 200,000 m ^{3 (A)}	37.10	42.19	42.17	38.70	42.96
Consumption of 200,000 to 2,000,000 m ³	30.86	37.39	32.99	31.23	34.38
Consumption of 2,000,000 to 20,000,000 m ³	27.85	35.11	29.70	27.61	30.67
Consumption more than 20,000,000 m ³	26.39	34.90	27.89	28.95	33.06
TOTAL	32.29	39.25	36.59	34.85	39.24

(J) Up to 2010 the price was recorded in one class of customers with consumption of 5,000 to 200,000 m³.

Source: Annual Survey on regulated sectors.

In 2011 there was an increase of smaller customers that reduced the weigh on average price of big customer who typically can obtain more favourable price conditions on free market. As in 2010 even if the smaller average price on free market than on reference price market, for smaller consumption classes (with consumption less than 50,000 m³/year) free market offers less favourable condition. In general, the possibility to obtain more favourable contractual and supply conditions is directly related to customer size, probably due to a best market knowledge and attention to supply conditions.

The average price for smaller customer on protected market, with consumption less than 5,000 m³/year was 52.59 c€/m³. This price is very similar to the economic condition of supply calculated for national domestic customer with a consumption of 1,400 m³/year, in fact this price in 2011 was 50.20 c€/m³ (with tax equal to 78.82 c€/m³).

Continuing to analyse customers on reference price market it is clear that the price level is inversely proportional to consumption; in fact price gap increase from a minimum of 9.45 up to 21.93 cents.

As shown, the biggest class consumption, with consumption over 20 M(m³), is not described, the presence in table of volumes and prices for customers with consumption over 200,000 m³ is due to the existence of customers who could have changed supplier but they did not decide yet and so they remained under reference price market conditions.

However the number of this customers and their gas consumption are relatively low, even if are on the increase respect to last year.

Also on free market the customer size affects price level: in fact smaller customers pay 22.41 c€/m³ more than bigger customers. A gap price very similar to protected market. As already pointed out, a part of gap price between free and protected market is due to distribution costs, that have bigger incidence for smaller customers. In addition smaller customers have a high consumption relation with climatic changes that involving in other storage and transport costs.

Interesting is to analyse the average prices differentiated for sectors as shown in table (..).

Table 4.10 Retail prices by type of market, sector of consumption and customer size in 2010

c€/m³;

CONTRACT TYPE AND SECTOR	CUSTOMERS BROKEN DOWN BY ANNUAL CONSUMPTION CLASS (m3)						TOTAL
	< 5000	5,000- 50,000	50,000- 200,000	200,000- 2,000,000	2,000,000- 20,000,000	> 20,000,000	
PROTECTED MARKET	52.59	43.14	42.63	37.87	30.66	–	50.43
Domestic	52.74	39.47	41.24	36.85	31.67	–	52.11
Condominium (heating)	51.03	44.95	43.98	39.74	49.81	–	45.46
Commerce and services	49.76	42.23	41.28	38.24	32.16	–	44.15
Industry	50.96	45.13	42.72	34.74	29.92	–	45.04
Power Generation	30.03	44.44	39.23	34.57	27.64	–	31.31
FREE MARKET	53.08	44.78	40.55	34.38	30.67	33.06	34.78
Domestic	53.95	42.83	41.26	37.10	36.53	–	52.31
Condominium (heating)	51.37	46.74	43.54	41.34	37.32	–	45.42
Commerce and services	51.00	44.70	40.76	35.71	31.65	35.12	40.49
Industry	49.59	43.21	38.93	33.70	30.08	32.03	32.40
Power Generation	45.42 ^(A)	44.51	40.89	35.50	34.06	33.45	33.50
TOTAL	52.65	43.88	41.00	34.47	30.67	33.06	39.24

(K) The data exclude a very high price but relative to insignificant volumes.

Source: Annual Survey on regulated sectors.

Also for this data processing (provisional as the previous data) are valid the same consideration above. Also in this case customers in free market pay an average price less than the customers in reference price market through the same sector and trend downward to rising consumption.

As happened in 2010 customers with small consumption served on free market, both residential, condominiums and commercial sector paid a price higher than the corresponding served on the protected market. As mentioned above, it is likely that some proposals offered on the open market penalized consumers who have chosen them. For a general comparison between the average prices, please note that in the reference price market is determining the weight of small users who paid 52.59 c€/m³ against an average total price equal to 50.43 c€/m³, while in free market, the average price corresponds to the amount paid by customers with annual consumption between 200,000 and 2,000,000 m³/year.

4.2.2.2 Monitoring the level of transparency, including compliance with transparency obligations, and the level and effectiveness of market opening and competition

The current monitoring system of retail market allows to Authority a systematic and regular observation of final market including compliance with the level of market opening, the competition, the market transparency and the customer satisfaction.

With regard to domestic consumer the Authority introduced instruments for:

- Improve knowledge and understanding of the market and its rules. These initiatives include the publication of the Atlas of the rights of energy consumers and the adoption of the resolution on the billing documents transparency;
- Helping the evaluation and the choice on free market. This initiative includes a system to find the best offers (called “Trova offerte”) and the obligation for seller to give a comparison scheme to customer before to conclude a contract.

As mentioned in previous paragraph and in similar section on electric sector (3.2.2.1 and 3.2.2.2) the Authority will adopt starting from 2012 a monitoring system provided by ITRM (Integrated Text on Retail Monitoring).

Different to dispositions of Resolution ARG/com 151/11, the Authority identified the subject obliged to send the basic data for 2012. The list of this subject is available on Authority web site. In specific, 48 distributors are obliged only for natural gas, 11 sellers only for natural gas, 4 distributor of power and gas and 41 sellers of power and gas. Data surveys inherent to 01 January onward are available since April 2012.

Finally, even for natural gas sector the Authority continued to take some information on retail market, in specific relative to the evolution of protected market in accordance to Law no. 125 of 03 August 2007 and Legislative Decree no. 93/11 (protection services)

Switching

The annual survey conducted on natural gas transport system operators and distributors once again included questions on supplier switching, i.e., on the number of customers¹¹⁰ changing supplier in the course of calendar year 2011¹¹¹. The questions were framed in such a way as to reflect the European Commission’s definition. Around 5.3% of all final customers changed supplier in 2011, a figure that corresponds to 29.9% in terms of gas volumes consumed by those making the change.

Table 4.11 shows this information in greater detail, with customers broken down by sector and annual consumption. Domestic customers, usually more cautious in shifting to the free market,

¹¹⁰ For ease of writing, in this text we speak generically of customers. It should be noted, however, that the term refers to the number of redelivery points in the case of transport users and of metering units in the case of distribution users.

¹¹¹ The questions were framed in such a way as to reflect the European Commission’s definition. The questionnaire on switching already submitted to operators in 2008 was repeated. Switching refers to the number of changes of supplier in a given period of time (one year) and includes:

- Re-switching: when a customer changes supplier for the second (or subsequent) time, including in the same time period;
- Switch backs: when a customer returns to his or her first or previous supplier
- Switching to a competitor of the incumbent and vice versa.

In cases where a customer changes area of residence the switch is recorded only if he or she chooses a supplier other than the incumbent in their new area. Moreover, a change in the economic terms applied by the same supplier is not the same as a switch. This applies even in cases where a new contractual formula is chosen or the customer changes from a protected to a non-protected price offered by the same supplier or one of its subsidiaries.

were more responsive to new offers in 2011. Indeed, the percentage switching supplier rose to 5.2% from 4.4% in 2010, 1.8% in 2009 and 1.1% in 2008. In volume terms, the percentages were slightly higher, at 5.7% in 2011, 4.8% in 2010, 2.4% in 2009 and 1.3% in 2008. From the other hand condominiums (central heating) and other-uses customers were more dynamic in their choices.

Table 4.11 Consumer switching rate in 2011.

CUSTOMER BY SECTOR AND ANNUAL CONSUMPTION	CUSTOMERS	VOLUMES
Domestic	5.2	5.7
Condominium for domestic use (heating)	5.9	9.2
Other uses	6.3	38.0
Of which:		
Up to 5,000 m ³	5.3	6.5
5,000 – 200,000 m ³	9.7	10.6
200,000 – 2,000,000 m ³	15.3	15.9
2,000,000-20,000,000 m ³	22.8	25.8
Over 20,000,000 m ³	36.3	39.1
Clients not included in any of categories indicated	44.4	45.3
TOTAL	5.3	29.9

Source: Annual Survey on regulated sectors.

In 2011, 5.9% of all condominiums changed supplier (9.2% in terms of consumption). In terms of customer numbers, 6.3% of “other uses” customers switched, a figure which corresponds to 38% in volume terms.

Switching rates naturally increase strongly with customer size. Higher gas volumes imply higher expenditure: the opportunity to make significant savings, normally the main reason for changing supplier, increases in line with knowledge of the sector and customers’ ability to make informed choices. Respect to 2010 other uses customers show higher switching rate for consumption above 2 M(m³).

Table 4.12 Switching rate broken down by region and type of customers in 2011

REGION	RESIDENTIAL		CONDOMINIUM domestic USES		OTHER USES		TOTAL	
	CUSTO MERS	VOLUME S	CUSTOM ERS	VOLUME S	CUSTOM ERS	VOLUME S	CUSTOM ERS	VOLUME S
Piedmont	0.9	1.0	0.6	0.7	4.2	5.7	1.3	4.7
Aosta Valley	4.8	4.9	7.0	11.6	6.6	55.9	5.0	42.9
Lombardy	4.8	5.6	7.3	9.4	7.0	44.3	5.0	33.7
Trentino Alto Adige	3.5	3.5	2.7	4.5	2.4	26.5	3.4	20.8
Veneto	4.9	5.4	4.2	6.4	7.6	26.6	5.1	19.3
Friuli Venezia Giulia	5.9	6.5	5.4	8.5	6.6	19.8	5.9	17.1
Liguria	3.7	4.5	5.1	11.1	4.7	70.0	3.7	45.2
Emilia Romagna	5.0	5.4	4.5	7.1	6.6	21.6	5.1	18.0
Tuscany	5.7	6.4	5.8	7.4	5.6	41.1	5.7	32.3
Umbria	6.9	8.1	6.7	7.4	6.5	4.6	6.9	5.3
Marche	5.3	5.2	3.0	2.3	7.7	15.5	5.5	11.0

Lazio	7.5	9.1	7.3	9.2	5.4	39.3	7.4	27.6
Abruzzo	4.9	6.3	4.2	10.3	4.8	31.4	4.9	25.6
Molise	4.3	7.0	3.5	55.9	7.2	53.6	4.8	47.5
Campania	5.4	5.5	2.9	2.1	5.3	64.6	5.3	49.8
Puglia	4.3	4.7	2.7	9.8	5.2	38.0	4.3	32.5
Basilicata	4.4	5.0	3.5	13.5	7.6	33.0	4.6	25.2
Calabria	6.3	7.8	3.4	1.7	5.9	42.3	6.3	38.4
Sicily	4.5	5.1	2.6	1.7	2.9	34.2	4.4	30.9
ITALY	5.2	5.7	5.9	9.2	6.3	38.0	5.3	29.9
NORTH	4.8	5.4	6.0	9.3	6.7	37.8	4.9	29.1
CENTER	6.4	7.2	6.2	9.2	5.7	34.3	6.3	26.4
SOUTH AND ISLES	4.9	5.3	2.9	4.8	4.9	42.0	4.9	35.9

Source: Annual Survey on regulated sectors.

Table 4.12 shows that domestic consumers have a homogeneous switching rate over all Italian regions even if the consumers of Central Italy are slightly more dynamic with a switching rate of 6.4% in terms of number of consumers and 7.2% in volume terms compared to an average national switching rate of 5.2% (number of consumers) and 5.7% (volumes). The switching rate of condominiums is higher in Centre-North, in particular this is higher in the Central Italy in terms of number of customers (6.2% compared to national average rate of 5.9%) and higher in the North in terms of volumes (9.3% compared to 9.2%). In 2010 the switching rate of condominium was concentrated only in the North, so there is a spreading of consumers behaviour. For other uses customers, in terms of number of customers, the Northern Italy has the higher switching rate, in terms of volumes the higher switching rate is in the South. This last data is very interesting because in the Southern Italy the switching rate in terms of number of customers is not so high, this means that in the South bigger customers are more dynamic respect customer with low consumptions. In terms of total switching rate the Centre has the higher switching in terms of number of customers (6.3% compared to 5.3% on national basis) while the higher switching rate in terms of volumes is in the South (35.9% compared to national rate of 29.9%). Clearly total switching rate in the Southern Italy is affected by bigger customer consumption.

Complaints and notifications

Between 01 January and 31 December 2011, about the total number of communications received to Help-Desk, equal to 37,895, those relating to the gas sector were 17,857 (about 47.1%).

Table 4.13 Communications received by the Authority on gas sector in 2010 and 2011

	2010		2011	
	GAS	TOTAL ^(A)	GAS	TOTAL ^(A)
Complaints	11,611	26,383	16,411	34,799
Request for information	1100	2368	1391	3020
Notifications	43	92	55	76
TOTAL COMMUNICATIONS	12,754	28,843	17,857	37,895

(L) Total relative to electric, gas and dual fuel sector.

Source: AEEG, from data provided by the Energy Consumers' Help-Desk.

Compared to 2010 the number of communications increased by 40%, an increase largely due to the implementation of the gas bonus. Also compared to the previous period the percentage of complaints (92%) slightly increased and slightly decreased the requests for information (7%). Remains substantially stable the percentage of notifications, very small in absolute value.

The most frequent topics in the communications received to Help-Desk in 2011, subject to classification, were: 9,268 for gas bonus (52%), billing 4,087 (23%), market information for 1,850 (10%), contracts in 1,223 (7%), connections and works 586 (3%). We can see, for these percentages, compared to 2010, a significant increase in complaints about gas bonus and a decrease of the percentage of complaints about other topics (such as billing, markets, contracts, etc.). As happened in 2010, the total increase of complaints, requests for information and notifications is mainly due to the amount of complaints relative to the bonus more than doubled. In particular, with reference to this point the main issues are the non-payment of bonuses and its application, including its rejection for non-coincidence between sent data with those available to the distributor.

Regarding the billing, the main issues raised are related to consumption (consumption billed in advance, adjustments, correction requests), the compliance with regular billing, consumption reading and the self-meter. Regarding the market, most of the communications involved issues related to supplier switching and double-billing, as well as issues of supposed violation of the Commercial Code of Conduct approved by the Authority. With reference to the "contracts", most of the communications involved the exercise of the right of withdrawal and the supply termination, transfers and gas dump.

Finally, regards to connections and other works, the most complaints are related to the taking over, the activation and the timing of execution of such services.

Table 4.14 Subject of the communications on the gas sector received by the Authority over the last two years

SUBJECT OF COMMUNICATIONS	JAN.-MAR.	APR.-JUN.	JUL.-SET.	OCT.-DEC.	TOTAL	%
2010						
Bonus	29	33	1.488	2.480	4.030	32%
Billing	875	854	760	983	3.472	27%
Market	533	505	403	507	1.948	15%
Contracts	328	349	263	268	1.208	10%
Connections/works	156	112	126	210	604	5%
Prices and tariffs	234	130	367	259	990	8%
Metering	63	54	48	79	244	2%
Commercial Quality	13	15	21	22	71	1%
Not under Authority jurisdiction	35	30	20	36	121	1%
Technical quality	9	8	2	8	27	0%
TOTAL CLASSIFIED	2,275	2,090	3,498	4,852	12,715	100%
<i>unclassified</i>	9	14	14	2	39	-
TOTALE - ALL CASES	2,284	2,104	3,512	4,854	12,754	-
2011						

Bonus	2,843	2,914	1,610	1,901	9,268	52%
Billing	1,057	1,137	897	996	4,087	23%
Market	556	576	368	350	1,850	10%
Contracts	292	327	262	342	1,223	7%
Connections/works	166	138	126	156	586	3%
Prices and tariffs	107	71	35	47	260	1%
Metering	52	80	62	77	271	2%
Commercial Quality	22	24	18	34	98	1%
Not under Authority jurisdiction	66	31	31	49	177	1%
Technical quality	15	9	5	7	36	0%
TOTAL CLASSIFIED	5176	5307	3414	3959	17,856	100%
<i>unclassified</i>	–	–	–	1	1	–
TOTAL - ALL CASES	5176	5307	3414	3960	17,857	–

Source: AEEG, from data provided by the Energy Consumers' Help-Desk.

4.2.3 Recommendation on supply prices

The Resolution ARG/com 151/11, shown in detail in the paragraphs on monitoring of the level of transparency and efficiency of market opening and competition (§ 3.2.2.2 and § 4.2.2.2), defines the monitoring system of the retail markets for electricity and natural gas.

This system is functionally to a regular and systematic observation of the operating conditions of the retail market and to the compliance of the final prices to the provisions of Article 3 of Directive 2009/73/EC. Monitoring is therefore useful to provide guidance for a reform or repeal of the protected economic conditions of supply.

4.2.4 Carry out investigations and imposing measures to promote effective competition

The competences and powers of the Italian Regulator under this heading have been illustrated in Table 3.2 in par 3.1.7.

In 2011 two investigations were concluded (see par. 3.17 for an illustration). In 2011 the Regulator moreover conducted activities aimed at controlling and monitoring the conditions of supply of public services (quality of service, security, network access, markets, tariffs, tariff integrations, production incentives,...) and to the identification of advantages and possible improvements of services supplied to customers. The Regulator might, according to the outcomes of investigations, adopt orders to halt behaviors that could prejudice users or orders to perform, sanctions or commitments to re-establish in cases of non-fulfillment or infringement of the law and claim back the amounts unduly received.

Finally it is noteworthy that in 2011, the Authority has with Resolution VIS 76/11 of 21 July 2011, VIS 76/11, an inquiring activity aimed at collection further information on the issue of “not requested contracts” describe in par. 2.3 on Consumer protection.

Out of the 134 inspections/requests of information carried out by the Regulator in 2011 - in collaboration with other institutions and the *Guardia di Finanza* (Italian police dealing with financial crime, customs and excise) - aimed to monitor and enforce energy regulation, 788 referred to electricity companies and 2 to dual fuel companies. Incentives for the development of quality of service and tariffs were the main objects of the inspections/requests of information.

All the inspections conducted since 2006 both in electricity and gas allowed the Regulator to start up legal actions aiming at claiming back from utilities around 200 million euro of incentives incorrectly cashed to utilities. Of these, 97.1 million euro have been recovered and already accounted in reduction to consumer bills, while the remaining 34 million euro recovered from utilities is still under legal action.

4.3 Consumer protection

Compliance with Annex 1 of Directive 73/2009/EC

For compliance with the provisions set in Annex 1 of the 73/2009 EC Directive, please refer to Table 3.16 of the electricity market.

Ensuring access to consumption data

Please refer to Table 3.2. in the on Consumer protection in the electricity sector for the compliance with the competences and duties regarding consumer protection to be attributed to regulator according to the 73/2009 EC Directive. The Table, containing a summary for both the electricity and gas sectors, clearly indicates that the Italian regulator has largely implemented the above mentioned competences and duties.

Public service obligations

The activities of the Authority in this regards are largely identical in both sectors: please refer to par 3.3 of the Chapter on the electricity market.

Definition of vulnerable customers

Legislative Decree 93/11 vulnerable customers are defined as follows (art. 7.1): *“Vulnerable customers are domestic customers, public services among which hospitals, nursing and retirement houses, prisons, schools and other public and private institutions conducting social assistance activity officially recognized and domestic and non-residential gas customers consuming less than 50,000 cubic meters/year...”*. Regarding customer protection Legislative Decree no. 93/11 also provides for the gas sector that: *“...within the public service obligations for gas vulnerable customers the Regulator shall, for a temporary period, determine reference prices according to the rules set by Law decree no. 73 of 18 June 2007...”* .

With Resolution ARG/gas 71/11 of 09 June 2011, the Authority included, among the customers having the right to access to the protection regime, also the public service activities mentioned by the decree.

Other provisions regarding the reference price regime in 2011 were: the quarterly up-date of reference prices, the opening of proceedings aimed at modifying the raw material (gas) component following the prescriptions of national legislation issued at the beginning of 2012 (art. 13 of Law decree no. 1 of 24 January 2012, converted into Law no. 27 of 24 March 2012), the up-date of the commercialization component¹¹² and the inclusion into regulation of the provisions of Legislative Decree no. 93/11 regarding last-resort supply¹¹³ and default supply¹¹⁴.

4.4 Security of supply

Legislative Decree no. 93/11, implementing the provisions of the Third energy package, attributed the competences and duties referred to in this paragraph of the Annual Report (i.e., monitoring balance of supply and demand, expected future demand and available supplies as well as envisaged additional capacity and measures to cover peak demand or shortfalls of suppliers) exclusively to the Ministry of Economic Development.

¹¹² Resolution ARG/gas 200/11 of 29 December 2011.

¹¹³ Resolution ARG/gas 116/11 of 04 August 2011.

¹¹⁴ Resolution ARG/gas 99/11 of 21 July 2011.