



2009 National Report Office of Energy Regulation (The Energiekamer) to the European Commission

**The data/contents refer
the reporting period 2008 unless otherwise stated.**

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1. Foreword

Our mission is to make energy markets work.

The Dutch office of energy Regulation (hereafter: the Energiekamer) is committed to making energy markets work as effectively as possible by implementing various regulatory instruments. This entails safeguarding access to networks, maintaining sufficient transparency (access to essential information) and protecting consumers against potential malpractices resulting from the (inherent) dominant position of providers.

The basic principles that are used to realise this mission relate to the conditions for effective market operations. In other words, the Energiekamer aims to fulfil its mission of making energy markets work, by focusing on the creation of conditions conducive to effective and efficient market functioning and the protection of consumer interests.

The Energiekamer operates in a problem-solving and issue orientated manner, and aims to tackle the issues and problems that hamper the conditions for effective market operations and consumer protection.

This national report will provide you with an insight into the Energiekamer's activities and developments over the past year.

Drs. Peter Plug

Director of the Energiekamer

2. Main developments in the gas and electricity markets

Gas

In 2008 the Energiekamer established new methods for the calculation of the 'efficiency rebate' that is applied to the tasks of Gastransport services (GTS), the Dutch gas TSO. The 'efficiency rebate' provides an incentive for the TSO to operate in a more efficient manner. The methods apply to the period 2009-2012. In relation to this, important steps were taken to ensure that from July 2009, the conversion from high calorific gas to low calorific gas (quality conversion) has become a regular system, service. Costs for this service are now fully socialized in all the entry- and exit tariffs. Thus resulting in one combined gas market in The Netherlands rather than two separate ones.

Even though the secondary market is still not working the way the Energiekamer would like it to, improvements have been made. A Gas Regional Initiative project resulted in a secondary trading platform on the German-Dutch Bunde/Oude Statenzijl interconnection point. From May 2008, unused capacity can be bought and sold through an auction or buy-it-now procedure. There are plans to expand this project to other interconnection points in the region.

Electricity

In 2008 the introduction of the Nor-Ned cable (a 700 Mw cable between The Netherlands and Norway) and a new 380 kV-substation at Borssele increased the amount of cross-border transmission capacity. Market coupling with Germany and Norway is expected to take place in 2010. The degree of integration with markets in neighbouring countries is increasing.

Another important development is that the articles that impose ownership unbundling for DSOs came into effect per 1 July 2008. This means that all DSOs must be completely unbundled per 1 January 2011. For the retail market an all time high switch percentage of 9,3% (consumers) is reported for 2008. Improving Transparency was the main challenge for the retail market for 2008. Preparations for the introduction of smart metering are in full progress.

Unbundling

The one development concerning unbundling in 2008 was the entering into force of provisions of the Law on the Independence of Network Operators¹ that prescribe ownership unbundling. Unbundling of DSOs is to be completed by January 1st, 2011. The Dutch TSOs are already unbundled.

Retail – Gas & Electricity

Every year the Energiekamer surveys the development of both the gas and the Electricity retail markets.² The survey concentrates on the service level of energy providers, consumer satisfaction (relating to transparency of information when comparing energy providers), switching procedures and behaviour, acquisition methods and consumer confidence. The most important conclusions in 2008 were that the administrative service level has been further improved compared to the last survey. There is, however, still a lot of progress to be made, because consumers are still generally unsatisfied with the way complaints are being handled.

¹ Wet Onafhankelijk Netbeheer.

² The survey (Marktmonitor kleinverbruik) assesses the period July 2007-June 2008 in detail. The Energiekamer is currently working on the survey that covers the period July 2008-June 2009. The result of both surveys will be available on www.energiekamer.nl.

Consumers also complain about the intensive acquisition methods some energy providers use to approach potential consumers. Because consumers have difficulties comparing different energy providers and their array of products, the Energiekamer has launched a website that provides consumers a tool for easier comparisons.³ Another conclusion from the survey was that switching energy providers can make a real difference, ranging from a maximum of EUR 75 for a contract with no specific end date to a maximum EUR 220 for consumers with a fixed price yearly contract. The rate of consumers that switched between July 2007 and June 2008 is 9.3% for electricity consumers and 9.1% for gas consumers. As a consequence of the increase in the switching rate the three largest energy providers, Nuon, Essent and Eneco saw their joint market share of 80% decrease marginally.

3. Regulation and Performance of the Electricity Market

3.1. Regulatory Issues

3.1.1. Management and Allocation of interconnection capacity and mechanisms to deal with congestion

The regulators of the Central West European regional initiative will publish their regional monitoring report on the use of interconnection capacity and the applied congestion management methods in the fourth quarter of 2010. For further details we refer to this document.

Assessment of national and cross-border congestion

Degree of congestion on the interconnectors

The average utilisation in 2008 of available cross-border capacity is as follows:

	Germany	Belgium	Norway
import	80,7%	25,1%	80,0%
export	10,3%	38,0%	8,4%

The number of hours with full utilisation of the available capacity is as follows:

	Germany	Belgium	Norway
import	1083	499	4211
export	23	954	237

In general, congestion occurs in the import direction (meaning from Germany, Belgium and Norway towards the Netherlands) on the cross-border connections with Belgium, Germany and Norway, although export has increased significantly in comparison to 2007 (especially during the night hours and towards Belgium). Even though export has increased, the price differences between Germany and the Netherlands usually favour import flows. Where explicit auctioning on the Dutch borders is used it usually causes an inefficient allocation of the available capacity to the market. For this reason implicit auctioning systems are being developed and studied for the German border and NorNed-cable.

³ www.consuwijzer.nl/energiewijzer

Degree of congestion within the national system

Recent developments in new production capacity in the Netherlands have increased the risk of congestion within the national transmission and distribution system. The development plans include larger thermal units, wind production as well as small CHP-plants. Even though at present congestion only occurs within a part of the distribution grid, more congestion is expected to occur in the coming years. In 2009 the Energiekamer developed a vision concerning the handling of national congestion, and the Dutch parliament passed ministerial rules on the improvement of current mechanisms.

In combination with new legislation, which should accommodate priority access for renewable generation within the Netherlands, an improved national system of congestion management will be proposed.

Congestion management methods as applied under the Regulation 1228/2003

The interconnector capacity available to the market on the borders of the Netherlands is allocated to market parties by means of different systems. Currently methods for four different timeframes are in place: the year-ahead timeframe (capacity for an entire year), the month-ahead timeframe (capacity for an entire month), the day-ahead timeframe (capacity for every hour for the next day) and the intraday timeframe (capacity for a particular clock hour for the next/current day). Currently different auction methods are used for different timeframes on the Dutch borders. The table outlines these different methods.

Border	Germany	Belgium	Norway
Timeframe			
Year	Explicit	Explicit	Not available
Month	Explicit	Explicit	Not available
Day-ahead	Explicit	Implicit	Explicit
Intraday	FCFS-OU ⁴	Improved pro-rata	Not available

In the following paragraphs the congestion management methods will be explained per timeframe.

Yearly and monthly allocation

For the Dutch borders TSO Auction, a subsidiary of the TSOs sharing a cross-border connection with TenneT (the electricity TSO), carries out the explicit auctions. The available capacity is allocated to the various auctions in a prescribed manner. Market parties bid for both import and export capacity. If there is sufficient capacity to fully meet demand, the price for this capacity (the clearing price) is EUR 0. When capacity is scarce, that is if the demand for capacity exceeds the supply of capacity, the clearing price is equal to the lowest offer accepted. Within the Central West European regional initiative a common set of auction rules has been discussed in the course of 2008 and 2009. These new rules will harmonize all the explicit auctions on the internal borders of the CWE-region in 2010.

The parties to which transmission capacity is allocated or transferred on the year-ahead or month-ahead auctions are obliged to notify TenneT of their intention to make use of this

⁴ The intraday mechanism on the German border is a first-come-first-serve obligatory use system.

capacity at the latest by 0800 hrs on the day prior to the transmission (this is the “nomination”). The capacity that is not nominated is then made available on the day-ahead auction. Currently, Use-it-or-lose-it rules apply at the time of nomination. The new auction rules for the CWE-region will introduce a use-it-or-sell-it mechanism at the time of nomination.

In September 2008 TenneT introduced netting of long-term import and export capacities on the Dutch borders. With netting the net value of the nominated commercial import and export flows is taken into account when calculating the residual capacity for the day-ahead stage. The implementation of “netting” significantly improved the level of day-ahead capacity on the Dutch borders.

Day ahead allocation

The day-ahead transmission capacity between the Netherlands and Belgium is auctioned through an implicit auction based on a trilateral market coupling mechanism. This trilateral day-ahead market coupling mechanism has been in operation between the Netherlands, Belgium and France since November 2006. Since then there has been a rise in price convergence between these three markets to up to 69% of the time. For the implicit auction on the Dutch-Belgian border, the TSO is responsible for publishing the functioning of the implicit auction and the corresponding algorithm. Furthermore, the relevant prices and volumes on the spot market, the aggregated supply and demand curves and the corresponding import/export curves must be published on an hourly basis. Also, a graphic reflection of the results of the implicit auction should be published leading to the market clearing price. Finally, information regarding paradoxical rejected block bids must be published.

Day-ahead capacity on the German border is auctioned with an explicit mechanism. The capacity allocated and the corresponding price must be published immediately after the day-ahead or month-ahead auction has been held. In the case of the day-ahead auction, this information must be announced daily at 0930 hrs (a half an hour after the auction at 0900 hrs). The parties to which import capacity has been allocated are obliged to offer the same quantity of electricity on the Dutch side of the border on the Amsterdam Power Exchange spot market, the APX. Any capacity which is not sold on the APX is reverted to TenneT. Due to the introduction of implicit auctioning on the Belgian border in 2006 this obligation no longer exists on that border.

In 2008 and 2009 TSOs and Power Exchanges of the CWE-region have started developing a flow-based market coupling in order to implement implicit auctioning on the German borders. Because of the highly meshed networks within the CWE-region this market coupling mechanism requires a capacity calculation system which takes into account the discrepancies between physical and commercial flows. The plan is to introduce market coupling on the German borders in the first quarter of 2010.

A new submarine cable between Norway and the Netherlands (NorNed-cable) was, after some delay, put into operation in May 2008. In 2008 and 2009 capacity was only allocated with a daily explicit auction mechanism. Although the objective remains to implement an implicit auction mechanism for the NorNed cable in 2009, this can only be done after a careful examination on the interaction with above mentioned market coupling project on the German borders.

Intraday-allocation

In December 2008 TenneT introduced an intraday capacity allocation platform on the German borders. This platform offers the residual unused capacity after the day-ahead stage. The platform explicitly allocates capacity on a First-come-first-serve basis with obligatory use. This means that when capacity is upon his request allocated to a certain market party, this party is obliged to use the capacity. If the party fails to do so, there will be imbalance charges on both sides of the border. In the Dutch-Belgian border an intraday platform was introduced in May 2009. This is the same as the system implemented on the border between Belgium and France.

Parallel to the development of interim solution on the Dutch borders, regulators in the CWE-region are working together with market parties towards a harmonised solution for cross-border intra-day trade for the CWE-region.

Degree of integration of congestion management with the wholesale markets

Congestion management is very important for the operation of the Dutch wholesale markets. Approximately 20% of consumption in the Netherlands is imported. Effective congestion management means that as much cross-border capacity as possible can be made available to the market within the limits of grid security. Due to the high percentage of imported electricity, the available import capacity is important for price formation on the wholesale markets. As day-ahead market coupling has been established on the NL-BE border, the efficient use of the available capacity is assured. This has also resulted in a high degree of convergence of the day-ahead prices of the Netherlands, Belgium and France. Although this is a very positive development it must be noted that most trade is done through (year ahead) OTC products. The implementation of a market coupling regime in the whole CWE region (including the NL-DE border) is foreseen to be implemented in the first quarter of 2010.

An assessment of the computation of transmission capacity by the TSOs.

The TSO must publish the secure, available cross-border transmission capacity for the following calendar year on an hourly basis before September 15th. On a daily basis, before 08:30, the TSO must announce the capacity available for spot transmission for the following day, specified per connection (in all cases 30 days in advance). In 2008 the cross-border transmission capacity increased because of the NorNed-cable and a new 380kV-substation in Borssele.

3.1.2. The regulation of the tasks of transmission and distribution companies

Regulation of the TSO

The Netherlands has one national grid company for the transmission of electricity (TSO) called TenneT TSO B.V. The TSO is regulated by the Energiekamer. The Energiekamer uses a system of turnover regulation (revenue cap) for the transmission tariffs with a yardstick partly based on international benchmark (best practice), combined with a frontier shift based on productivity growth of other foreign TSO-companies. The yardstick objective is set for the final year of a 3 to 5 year period. The current period will finish at the end of 2010.

The allowed revenue of the company is adjusted annually by $(1 + \text{CPI} - X)$. CPI is the Consumer Price Index and X is the efficiency incentive. The quality is regulated through quality standards that are laid down in codes and not with financial incentives.

The system of yardstick competition provides incentives to increase cost efficiency. Higher profits can be achieved if the costs of the company do not exceed the ex ante expected efficient cost level. The costs are determined according to a standardised method. Annually, the Energiekamer collects actual OPEX, investments and depreciation (based on regulatory accounting rules) and volumes charged to customers.

To guarantee security of supply in the Netherlands, a separate system is used for assessing expansion investments. In other words, the utility and necessity of these investments must be assessed and, if the investment is useful and necessary, the revenue cap and tariffs will be corrected.

Based on the revenue cap, the TSO each year puts forward a tariff proposal for all tariff components given expected volumes. This proposal is assessed and approved by the Energiekamer. Customers can find the tariffs on the website of the Energiekamer (www.energiekamer.nl) or on the website of TenneT.

The tariff structure is laid down in a code. This so called 'Tariffcode' can be adjusted by the Energiekamer. Usually the adjustments are proposed by (a majority) of Dutch grid companies and assessed by the Energiekamer.

Regulation of DSO's

Like the TSO, the DSOs are regulated by the Energiekamer. The Energiekamer uses a system of national yardstick competition (with a price cap). The allowed revenue of a company is adjusted annually by $(1+CPI-X+Q)$. CPI is the Consumer Price Index and Q represents the quality factor. X is the efficiency incentive. The yardstick (objective in final year of a 3 to 5 year period) is equal (except some regional differences) for all DSOs and is determined by the average growth in total factor productivity. The current regulatory period finishes at the end of 2010.

This system of yardstick competition provides incentives to increase productivity. A DSO can achieve higher profits when the productivity growth exceeds the average productivity growth. Productivity is measured by dividing the costs of the DSO by its standardised output. The costs are determined according to a standard method. Annually, the Energiekamer collects audited data on actual OPEX, investments and depreciation (based on regulatory accounting rules) and volumes charged to customers.

A possible danger of the system of yardstick competition is that DSOs may reduce their investments in order to increase their productivity. By reducing investments, the quality of the grid may be reduced. Quality is measured by the System Average Interruption Duration Index (SAIDI), which is the average interruption per consumer. To avoid a reduction in quality, the Energiekamer introduced quality regulation on January, 1st 2005, which includes interruptions experienced by consumers on the low-voltage grid (<50kV). The Energiekamer has included quality regulation into the system of yardstick competition. The allowed revenues of a company are adjusted annually by $1+CPI-X+Q$. If an individual company performs above or below average quality, higher or lower revenues are permitted. The annual average interruption duration per consumer at the low-voltage level amounted to approximately 22,1 minutes in 2008.⁵ In addition, the Energiekamer has started a project to gather more information on

⁵ From: Netbeheer Nederland, www.energiened.nl.

investment decisions and policies of the DSO's. The outcome of this project could lead to future adjustments of regulation.

The allowed revenue is based on expected volumes. At present there is no specific revenue for congestion. Given the allowed revenue, each DSO presents a tariff proposal to the Energiekamer for all the tariff components each year. This proposal is assessed and approved by the Energiekamer. Customers can consult the tariffs on the website of the Energiekamer⁶ or on the website of their DSO.

Balancing

Since last year's National Report, there haven't been any further developments in the market model for balancing energy. Therefore we refer to the 2008 National Report. Currently there is no information concerning the price of balancing.

3.1.3. Effective unbundling

Introduction

There is a separate TSO for gas and electricity (TenneT for electricity and GTS for gas). In addition, there are twelve DSOs. All the DSOs supply gas and electricity, with the exception of three. In the Netherlands, DSOs (with fewer than 100,000 customers) are not treated any differently from the large DSOs. All DSOs are fully owned by Dutch municipalities and provinces. The two TSOs are fully owned by the State of the Netherlands. For a more detailed explanation of the unbundling requirements for TSOs and DSOs, we refer to the 2008 National Report.

TSO

In 2008 there were no further developments regarding the unbundling of the TSO. Since July 2005, TSOs must be structured in such a way that their commercial and public activities are clearly distinguishable. TenneT has complied with this obligation since that date. TSOs may still be part of a holding company in which commercial activities are carried out. In case of the Dutch electricity TSO, TenneT, the commercial holding company is 'TenneT Holding' and TenneT TSO performs the legal tasks that are applicable on the transmission system operator, owning the grid. TenneT Holding (including of course its network) is fully state-owned. Finally, TSOs are obliged to keep separate accounting (also per legal task).

DSOs

DSOs must be structured as separate legal entities outside a vertically integrated company. The Law on the Independence of Network Operators⁷ stipulates that the management of electricity grids and gas networks, on the one hand, and the production, supply and trade in electricity and gas on the other hand, may no longer occur within one and the same group of companies. Additional legal requirements that enhance public and independent network operations have also been put into effect. The Law contains requirements to guarantee the financial

⁶ www.Energiekamer.nl

⁷ The Dutch name for this law is Wet Onafhankelijk Netbeheer.

independence of network operators. The Law also obliges energy transmission services to be legally separated from other commercial services. The articles that impose ownership unbundling entered into force in July 2008. Unbundling is to be completed by January 1st, 2011. This process is supervised by the Energiekamer.

With a thirty minute interruption period per end user per year, Dutch networks are amongst the most reliable of European networks. The operational independence of the DSO is safeguarded most when it is unbundled. This eliminates the necessity for monitoring the potential preferential treatment extended by the DSO to other parts of the holding.

All the DSOs are legally separated from activities unrelated to network management. The ownership of assets is also separated in the case of all network operators. Two large DSOs (Liander and Enexis) have been separated in the last months after their unbundling plans were judged . Two other large companies (Delta and Eneco) have not been separated yet, however plans for unbundling have been submitted and will be assessed in 2009.

3.2. Competition Issues

3.2.1. Description of the wholesale market

The Monitor Energy Markets reports on the developments of the wholesale market in the Netherlands. At time of publishing this document has not been finalized yet, however it will be published soon on the website of the Energiekamer.⁸

Key 2008 figures

Total consumption	123.508 TWh
Generation capacity	23,8 GW
Net generation volume	107.658 TWh
Import capacity	3,65 GW
Net import volume	15.850 TWh

Market places

The Dutch wholesale market can be subdivided into the following marketplaces where supply and demand meet:

- the trade in bilateral contracts, or the bilateral market;
- the OTC (over-the-counter) market;
- the day-ahead market (spot market, APX); and
- the balancing market, or the market for control and reserve power.

Non-standardised contracts (so-called profile contracts) are concluded between producers, (large) consumers and suppliers for lengthy periods on the bilateral market. The contractual period is usually limited to a period of one to two years because the market parties have insufficient certainty with regard to the development of the market structure and market prices. The over-the-counter market (OTC) is the market on which standard quantities of electricity are traded (outside APX). On the OTC, electricity is often sold on numerous times through various

⁸ www.energiekamer.nl.

intermediaries who clear transactions, the so-called "brokers". Various brokers are active on the Dutch market.

Additionally, Endex exists since 2003. This trading platform started at the beginning of 2003 with the clearing of electricity contracts. Endex publishes daily prices for a range of (standardised) OTC products. Since December 2004, traders can also trade standard OTC futures through Endex. The APX (Amsterdam Power Exchange) is a day-ahead market on which supply and demand for electricity meet on an hourly basis. The volume of the APX is determined to a considerable degree by the (interconnector) daily imports which have to be traded on the APX.

Finally, there is the 'market' for control and reserve power organised by TenneT. TenneT contracts a certain quantity of control and emergency power on an annual basis. The cost of contracting power is charged to all consumers through TenneT's system services tariff. TenneT calls for bids for control power if an imbalance arises. The cost of the energy required for this is recovered from the party responsible for this imbalance (the system of programme responsibility). The market for control and reserve power is a special market used by TenneT to restore balance in real-time when the Dutch system is disrupted.

Within the wholesale market for electricity, there is a strong relationship between the various marketplaces mentioned above and arbitrage occurs between them. Financial derivatives, such as options, futures and swaps, which can be used to hedge risks, have only developed to a limited degree. The low volume of electricity traded is the main obstacle to the emergence of such products.

Market structure

Approximately 25 electricity producers are active in the Netherlands. In terms of the size of generating fleets, the Netherlands has seven large and 18 small electricity producers. The large coal- and gas-fired plants and the combined heat-power plants which provide the bulk of production in the Netherlands are owned by a few large producers. Three-quarters of the Dutch generating fleet belongs to four electricity producers. The degree of concentration in the Dutch wholesale market is measured using the Herfindahl-Hirschman Index (HHI).

HHI

	Capacity	Generation
2006	1604	1700
2007	1592	1828
2008	1551	1742

Description of the market for support services (for instance, frequency response):

The Netherlands distinguishes between various types of support services. Several support services are secured by means of a connection requirement in the technical codes (for instance, suitability for providing primary frequency response and voltage response). Some support services are contracted by TenneT through issuing tenders (for instance, control power, emergency power and black-start power). Finally, there is a market for control and reserve power (the balancing market). Power is deployed through this market to maintain the balance of the Dutch system (and therefore to maintain the exchange with foreign countries). Programme managers can offer available control and reserve power on the market for control and reserve

power. The parties must submit their bids on the day prior to the day of transmission by TenneT. The bids may be changed up to one prior to the actual transmission. The bids are ranked on the so-called 'bid-price ladder' according to the price per MWh at which they are offered. TenneT is the only buyer on the market for control and reserve power; consequently, the market for control and reserve power is a so-called 'single-buyer' market'. At the border of the Netherlands, TenneT measures the actual balance of import and export and compares this with the balance of all the electricity programmes. If there is a difference between these, there is an imbalance. In the event of imbalance, TenneT uses bids for control power to eliminate the imbalance. The control power offered on the market for control and reserve power is used for this in the order of the bid-price ladder, starting with the cheapest supplier. This may be capacity used to increase or to decrease power. In both instances, the price of using this power, which TenneT owes the bidders, is determined on the basis of the bid-price ladder. This is the price of the last bid used. On the basis of the bid-price ladder and the power required to increase or decrease capacity for a Programme Time Unit (in the Netherlands, a quarter of an hour), two balancing prices are determined: a price for increasing capacity and a price for decreasing capacity. These prices determine, amongst others, the price TenneT pays or receives from the connected parties which supply control power to TenneT. The price for power to increase capacity is determined by the price of the highest bid which is used fully or partially on the side of the bid-price ladder for power used to increase capacity. On the side of the bid-price ladder for power used to decrease capacity, the price is determined by the highest bid used for balancing.⁹ The Energiekamer does not have reliable data on the degree of concentration on the market for control and reserve power. This level, of course, is expected to be higher than that of the 'normal markets' because fewer production units are technically able to participate in the Frequency Power Scheme (*Frequentie Vermogens Regeling (FVR)*).

Power exchanges

The APX is a marketplace for trading in day-ahead contracts. Standardised forward contracts are traded on Endex.

	APX	ENDEX Futures Exchange	ENDEX OTC clearing
Number of traders	53	37	37
Volumes traded	24,8 TWh	41,2 TWh	77,5 TWh

In addition to the day-ahead market, the APX launched an intraday market in September 2006. In this market, quarter hours of electricity can be traded up to two hours before delivery. A total of 30 standard forward contracts are now available on Endex: 6 monthly, 6 quarterly and 5 yearly contracts for both baseload and peakload.

The next graphs show the development in volumes of APX and ENDEX exchanges, both are on the rise in 2008..

Figure: APX day ahead volumes in TWh 2002-2008

⁹ For more information see the Energiekamer's report "*Transparantie voor onbalanssystematiek, Onderzoek en maatregelen*" ["*Transparency for the balancing system: research and measures*", The Hague, 2 June 2004"].

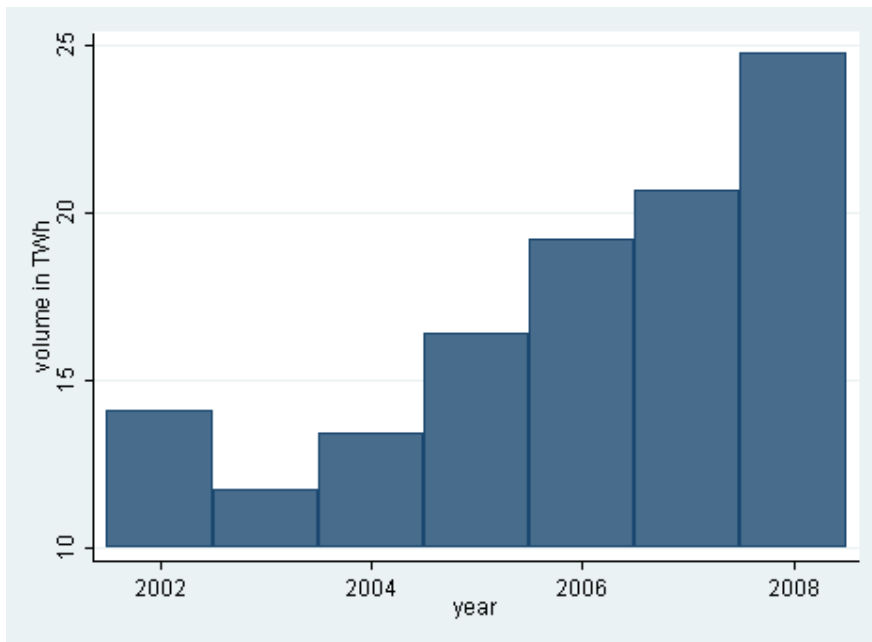
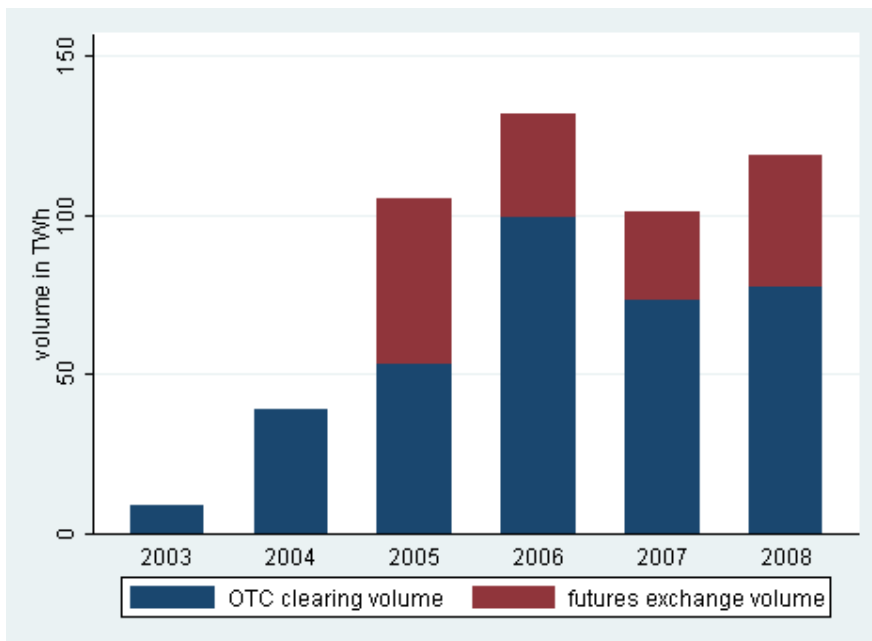


Figure: ENDEX volumes (all contracts) 2003-2008



Active role of buyers on the wholesale market

The Energiekamer does not have reliable data on the demand participation on the market. The Netherlands does not have an obligatory pool requiring supply/production and

demand/consumption to be offered separately. Market parties trade on the basis of a portfolio which may consist of production facilities, contracts, but also demand response options. Research has been done into the contribution which industrial consumers could make to interruptible demand, for instance if prices reach very high levels.¹⁰ From this research it can be concluded that the potential demand response amounts to approximately 1730 MW, of which approximately 1000 MW is utilised. The demand response of consumers who themselves trade is approximately 350 MW. The demand response agreed in interruptible contracts is approximately 650 MW.

Degree of integration with markets in neighbouring countries

The Dutch market is connected to the Belgian, German and Norwegian markets through interconnectors. Under normal operations, the maximum transmission capacity on the five cross-border connections is 3650 MW, of which 3350 MW is available to the market. As of January 1st, 2001, the allocation of the available cross-border capacity has taken place by means of an auction which TenneT organises jointly with the TSOs of neighbouring countries. The capacity is auctioned in the categories year-ahead, month-ahead, week-ahead and day-ahead. On November 21st, 2006 the Trilateral Market Coupling with Belgium and France took place, the power exchanges are now connected and take the available capacity at the borders in consideration. The cable between the Netherlands and Norway (700 MW) has been in operation from May 2008. Price correlation is not a good indicator of the extent of market integration. Price differences will exist when there are active restrictions on transmission capacity. It is more important to consider the efficient use of interconnectors.

Assessment of impact of mergers on competition

The Energiekamer has published a vision document entitled "Vision Document on Mergers in the Energy Markets".¹¹ The aim of this document is to inform all parties involved and parties interested in the development of the energy market in the Netherlands and beyond on the investigations and subsequent market consultation which it has carried out into (i) the definition of (possible) relevant markets in the electricity sector and (ii) the way in which the Energiekamer views possible mergers and acquisitions on these markets.

The vision document states that the Energiekamer has indications that, on the basis of the situation in 2008, the geographical market for production and wholesale trade (from the perspective of competition law) comprises (i) the Netherlands during peak hours and (ii) at least the Netherlands and Germany during non-peak hours. Only if there is a sharp increase in the available transmission capacity on be cross-border connections, would a larger geographical market be possible .

3.2.2. Description of the electricity retail market

The Energiekamer doesn't have all the figures that can be broken down into all the segments that are requested, neither are there figures for medium-sized industrial and commercial consumers with consumption between 50 MWh and 2000 MWh or large industrial consumers with consumption exceeding 2000 MWh.

¹⁰ See the report "*Benutting vraagrespons in de geliberaliseerde elektriciteitsmarkt*", Research for the Ministry of Economic Affairs, May 18th, 2004.

¹¹ "Visiedocument Concentraties Energiemarkten", The Hague, November 2006.

Market structure

Just like last year, the structure of the Dutch electricity retail market is characterised by a few large suppliers (all incumbents) and a large number of (very) small suppliers. There are four large suppliers that supply electricity to small consumers and have a market share that exceeds 5%. Three of these are incumbents and one is a new entrant who entered the market after full liberalisation in July 2004. There have been no changes since last year's report.

C3 index	E
1 July 2004	86%
31 December 2004	84%
1 July 2005	83%
31 December 2005	80%
1 July 2006	81%
31 December 2006	82%
1 July 2007	83%
31 December 2007	82%
1 July 2008	81%
31 December 2008	80%

Table 3.2.2-a: Development of the C3 index for electricity since the liberalisation of the market

The three largest suppliers have a total market share of 80.4% in the small consumer segment. In total, there are 23 independent parties (parent companies) active on the market for small consumers of electricity. These are active in various levels of the market and four of them are national "incumbents". This is the same as previous year. In 2008 no customer portfolios of "original" incumbent suppliers were taken over. On December 31st, 2008, there were a total of 40 energy suppliers in the possession of an electricity supply licence (not all of these are independent).

Entries and exits, and international penetration

Since full liberalisation, the following takeovers of Dutch electricity suppliers by foreign companies took place:

<2004

Obragas and Haarlemmermeergas – RWE (Germany)

2004 / 2005

NRE - E.ON (Germany)

Intergas - Dong (Denmark)

Oxxio - Centrica (UK)

Spark Energy - Electrabel (Belgium)

2006

Cogas - Electrabel (Belgium)

Rendo - Electrabel (Belgium)

2007

None

2008
None

Some (but not all) of the Dutch company names and brands have been replaced. By means of the takeovers, foreign companies have established a platform from which they wish to increase their share of the Dutch market.

In 2008 two new licenses for the supply of electricity were issued and three licenses were revoked (two of those voluntarily by the suppliers, because they changed name and continued to supply electricity and one of them is revoked by the Energiekamer because of imminent financial weakness). New applications for licences are being prepared at the moment.

Vertical integration, supply/production and distribution grid

Supply: production

The degree of integration of production and supply companies is expressed here in market shares. This relates to the market share of suppliers on the small consumer market which have at their disposal (significant) production capacity of their own in the Netherlands. In March 2004, this figure was at least 62%. If all parties with access to own generation capacity (or an unrivalled claim to a source) are viewed as being vertically integrated, at the moment this figure is close to 90%. Important to note though, is that for some of these companies the generating capacity and retail market shares are so wide apart that it is highly questionable whether these companies can benefit from having both generation capacity and a retail customer base.

Supply: grid

Of the retail electricity market 83% is supplied by companies that are in the same holding as a distribution grid operator. The rest of the market is supplied by either independent entrants or formerly integrated companies that have fully unbundled voluntarily.

Switches

Between January 1st, 2008 and December 31st, 2008, 9,3% of all consumers switched electricity supplier. This is an increase from the previous 12 month-period (8,5%) and is the highest switch percentage since full liberalisation in 2004. The figure below provides an overview of monthly switching rates since full liberalisation.

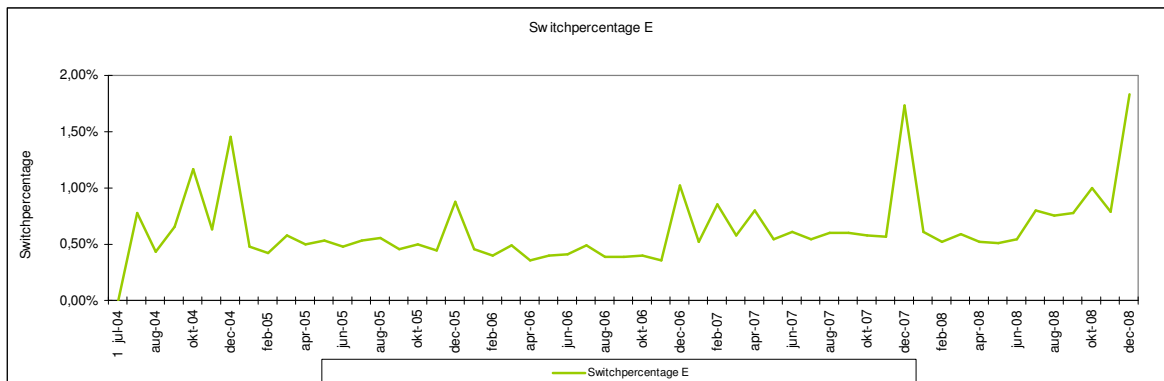


Figure 3.2.2-b: Development of monthly switch rates for electricity since market liberalisation

Although switching rates are up from previous years, the perceived switching threshold is still fairly high. Consumers still feel unsure about available information, are afraid of administrative problems (although this has vastly improved since early liberalisation), or are just not interested in the “product” energy. This high perceived switching threshold has been identified as one of the most pressing issues in the Dutch retail market. Therefore the Energiekamer will try to activate small users in 2009.

Switching procedures

The procedure remains unchanged from the previous year. If electricity consumers wish to switch their electricity supplier, they must inform the new supplier verbally (for instance, by telephone) or in writing of the intention to switch and must then authorise this new supplier to request the necessary information and take the necessary action (for instance, requesting information from the connection register of the grid operator and making arrangements in relation to programme management). In addition to this, consumers must provide the meter reading. If they fail to do so, they automatically accept that the final settlement by the former supplier will be based on an estimate of consumption. After completing these steps, the consumer has done all that is necessary to switch. In this regard, the Energiekamer advises consumers to ascertain whether the new supplier respects the duration of the contract with the former supplier. The customer is then certain that he will not be faced with parallel contracts and possible cancellation fees. After this, the consumer doesn't need to take any further action and can wait for confirmation from the new supplier and the final settlement from the previous supplier.

The new supplier submits a request for a switch to the grid operator. The meter reading accompanying the switch has to be sent to the grid operator as soon as possible by the new supplier, but at the latest 15 working days after the date of the switch. Immediately after receiving the request for a switch, the grid operator carries out a number of checks (for instance, whether the application was submitted at least five days before the intended date of the switch). If the result of the checks is positive, the grid operator confirms acceptance of the switch at the latest on the working day after receipt of the notification of the switch from the former and the intended new supplier. At that moment, the grid operator also enters the change into the connection register. The grid operator passes on the meter reading(s) as soon as possible, but at the latest on the 30th working day after the date of the switch, to both the former and the new supplier. The grid operator also notifies the former supplier of the consumption so that the former supplier can draw up the final invoice.

Problems with switching

Satisfaction regarding switching procedures and administrative procedures has generally increased, which was also the case in 2007. The main problem with switching was and still is that the majority of switches are based on meter estimates instead of actual meter readings, just as last year. This results in consumers not recognising their final settlement bill with the old supplier. This in turn leads to complaints and requests for corrected bills. In the long run this problem should be eliminated by the introduction of the smart meters which is foreseen for the near future.

Prices, tariffs and tax rate per component of the invoice

Transmission costs

The transmission costs (also referred to as grid costs) for 2008 consist of:

1. Consumption-related costs (variable costs, with tariffs per kWh)
2. Standing transmission charges (transmission capacity)
3. Standing connection charges
4. Any one-off connection charges
5. System services (TSO)

The transmission and distribution tariffs are determined annually by the Energiekamer and are therefore regulated. Since January 1st, 2008 the tariffs for electricity metering services are regulated (because of legislative reasons the gas metering tariffs were not yet regulated in 2008). The Energiekamer sets a, national, maximum tariff each year.

The distribution tariffs for 2008 may differ from one grid operator to the next. The following overview is based on a weighted average (number of connections) of all regional network operators.

- Standing charge for the transmission service (EUR): 18,00
- kWh tariff (weighted average, EUR per kWh): 0,0331¹²
- Periodic connection fee (weighted average, EUR): 21,90
- System services tariff (EUR per kWh): 0.00117

For an average Dutch consumer this leads to an annual total of EUR 160.

The overview above will change slightly after January 1st, 2009. From that moment the grid costs will no longer be based on electricity consumption. This implies that the kWh tariff will disappear and will be replaced with one capacity based tariff.

Metering costs

The electricity metering tariff (meter rental) has been regulated from January 1st 2008. When considering that the regulated tariff is a maximum, actual tariffs charged could be lower. However in practice we see that in 2008 all Dutch consumers paid the same electricity metering tariff of EUR 24,47.

Supply costs

The supply consist of the cost of the electricity consumed and fixed costs. Supply tariffs are not regulated. There is however a form of tariff “supervision” whereby the Energiekamer has to approve all individual (new) tariff proposals by suppliers. On December 31st, 2008, a household with an average consumption (3512 kW per annum) paid a net amount of EUR 345 in supply costs on an annual basis (approximately 18% of the consumer's total energy bill). This is including fixed costs, but excluding VAT. The result is an average supply tariff (including the fixed supply costs) of around EUR 0.098 per kWh. The Energiekamer surveys the fairness of these tariffs.

Taxes

There are various taxes on the supply of electricity. In the case of electricity, the energy tax amounts to EUR 75.20 per MWh of electricity supplied on 31 December 2008. A Value Added Tax (VAT) of 19% is charged on the amount of electricity delivered (consumption and non-consumption related tariffs) and the energy tax. In addition, a tax rebate of EUR 199 (excluding VAT) is applied (to the total energy bill, electricity and gas combined).

¹² Double Tariff High: 0,0402 / Double tariff Low: 0,0197 / Single tariff: 0,0346.

3.2.3. Measures to avoid the abuse of dominance

Competition measures

The Energiekamer monitors the competition and barriers to competition in the wholesale markets for gas and electricity yearly. The monitoring report is published on the website of the Energiekamer.¹³ Part of this monitoring project is aimed at establishing the level of concentration for the different parts of the electricity market. However, this exercise is meant to monitor the concentration over the years, not the establishment of market dominance.

Despite the fact that the supply tariffs are not regulated, the Energiekamer has the statutory power to impose tariff reductions on supply companies if the tariffs are determined to be unreasonably high. Until now, this has never occurred.

With regard to transparency, the Energiekamer has taken facilitative measures to improve the transparency of the market and, by doing so, also to improve competition on the retail market (and prevent the abuse of market dominance). For instance, the Energiekamer annually investigates the correctness and completeness of data published on websites that make price comparisons. In 2008, based on guidelines for information provided to consumers by energy suppliers, the Energiekamer also looked at the information on the websites of the energy suppliers'. In 2009 the Energiekamer will revise and enforce these guidelines. In addition, the Energiekamer will investigate whether invoices are clear and will randomly check to establish whether invoices are correct. The Energiekamer also investigates the way in which energy suppliers handle complaints. In 2008 the Energiekamer also started a comparison site for energy suppliers called "Energiewijzer" (this can be translated to "Energy indicator").

The contractual conditions which suppliers use in supply contracts with consumers must be transparent, fair and known beforehand. According to section 95m of the Electricity Act and section 52b of the Gas Act, misleading advertising is not permitted. This has been explained in more detail in the following documents:

- the Policy Rule on Invoicing Deadlines for Energy [*Beleidsregel factureringstermijnen energie*]. This requires the sending of a correct and complete (final) invoice to small consumers (suppliers) within two months after a change of address, switch or termination of the invoicing month, and to send to consumers a statement containing a clear and comprehensible specification of the connection charges (grid management);
- the Policy Rule on Fair Cancellation Fees for Licence Holders [*Beleidsregel Redelijke Opzegvergoedingen Vergunninghouders*] of March 2005. This limits the cancellation fee which a supplier may charge if a small consumer cancels a contract prematurely;
- the Decision in Relation to Licences for the Supply of Electricity to Small Consumers [*Besluit vergunning levering elektriciteit aan kleinverbruikers*] of May 2003 and the Decision in Relation to Licences for the Supply of Gas to Small Consumers [*Besluit vergunning levering gas aan kleinverbruikers*] of June 2nd, 2003. These documents state the conditions which an electricity and/or gas supplier must meet to supply small consumers. Conditions include (amongst others) the use of clear offers and agreements in which the level of the tariffs and the composition of these is stated, a transparent and fair payment scheme, a transparent and fair scheme for cancelling or dissolving agreements and the ability to process complaints adequately;

¹³ www.energiekamer.nl.

- the Ministerial Scheme for Consumers and Monitoring. The Electricity Act of 1998 and the Gas Act stipulate requirements regarding supply agreements with small consumers, such as personal details and the address of the supplier, a description of the goods and services to be supplied and the agreed quality levels in relation to these, as well as the way in which information can be attained with regard to tariffs, the contractual term (if nothing is specified in this regard, the agreement is concluded for an unspecified period), the right to cancel the agreement and the conditions applicable to renewal or cancellation of the agreement, a description of the applicable fees and reimbursement scheme, and the way in which the dispute procedures can be invoked.

Since the beginning of 2006, the Energiekamer has on a monthly basis monitored the administrative processes (and accompanying communication) in relation to switches and changes of address, to ensure that consumers and other market parties (grid operators and suppliers) are not obstructed by any administrative processes of energy companies. The results are published on the energy comparison website and are also used for enforcement purposes.

With regards to unbundling, the law stipulates that energy transmission and distribution services must be legally separated from other commercial services. Recently, the Minister of Economic Affairs intervened directly in the structure of the market to prevent distortion of competition between suppliers that own distribution grids and those that do not.

Finally, the proposed mergers and acquisitions (for instance, in the energy sector) must be approved by the Netherlands Competition Authority (NMa). In this regard, the acquisition of or exercise of market dominance can and will be prevented.

4. Regulation and Performance of the Natural Gas market

4.1. Regulatory Issues

4.1.1. Management and allocation of interconnection capacity and mechanisms to deal with congestion

The Netherlands does not suffer from either contractual or physical internal congestion. However, the situation on the borders is rather different. Especially the import into the Netherlands on the 'interconnection points' appears to be affected by substantial contractual congestion. There have been indications that the congestion on the import side could become physical as well if no new investments are made. The table below shows the degree and the ways in which the border entries and exits have been used in the years 2006, 2007 and 2008. It also shows that the physical interconnection capacity has been expanded by some 10%. More and large investments are underway and foreseen for 2012. The fact that all import capacity is firmly booked and only 63% is used is an indication of contractual congestion. Perhaps the most striking conclusion from the table below is that the percentage of actual usage is dropping in respect to previous years.

The table also shows that on the export side an increasing percentage of capacity is contracted firm beforehand. This goes hand in hand with a larger volume of actual allocations.

Year	Gas quality	Export			Import	
		g	g+	l	h	h

2006	firm available	133.355	18.997	676.191	100%	591.879	100%	297.671	100%
	firm contracted	100.806	18.997	580.334	85%	421.303	71%	297.671	100%
	interruptible contracted	0	0	0	0%	31.364	5%	85.530	29%
	backhaul contracted	8.385	0	7.915	2%	57.610	10%	5.634	2%
	allocations total	36.358	5.546	255.539	36%	248.050	42%	227.627	76%
2007	firm available	119.799	19.018	658.697	100%	581.937	100%	305.463	100%
	firm contracted	101.842	19.018	585.419	89%	387.391	67%	305.463	100%
	interruptible contracted	0	0	0	0%	18.209	3%	112.517	37%
	backhaul contracted	14.776	0	23.851	5%	78.736	14%	5.524	2%
	allocations total	44.625	4.629	247.146	37%	283.246	49%	232.281	76%
2008	firm available	120.127	20.786	627.983	100%	580.726	100%	336.571	100%
	firm contracted	114.121	20.786	575.556	92%	555.384	96%	336.571	100%
	interruptible contracted	155	0	0	0%	27.246	5%	114.998	34%
	backhaul contracted	24.664	0	19.647	6%	105.596	18%	6.961	2%
	allocations total	30.957	6.076	239.021	36%	317.649	55%	212.807	63%

GTS, the Dutch TSO, offers unused capacity to the market on an interruptible basis. It works like this: reservations are accepted on the basis of the First Come First Served allocation mechanism. As soon as the capacity on a certain entry- or exit point is fully booked the TSO will inform the requesting shipper and offer him interruptible for the remaining non-matched portion of the requested capacity. GTS offers three tranches of interruptible capacity, where the possibility of interruption is reflected in the price. Moreover, GTS has started a platform with the German TSO, Gasunie Deutschland, where primary interruptible capacity can be booked for the highly congested German-Dutch IP Bunde/Oudestatenzijl (IP BOS). Finally, reservations against the flow (backhaul reservations) are always interruptible. These swaps of capacity make up for an ever larger percentage of capacity.

The entry- and exit system brings along a complex model of technical capacity calculation. The volume of capacity is not only determined by the diameter of the pipeline, but by a host of other variables, internal as well as external.

There is no difference in the transportation tariffs for transit shippers or 'destination' shippers. The tariff is set by the Regulator and is equal for all those active on a given point irrespective of the availability of capacity.

The secondary capacity market is not working in the manner that the Energiekamer would like it to work. However, it must be noted that improvements have been made. A fairly successful Gas Regional Initiative project has resulted in a Secondary Trading Platform. From May 2008 unused capacity can be offered at this Trading Platform by capacity holders and bought via an auction or a buy-it-now procedure. Though only applicable at the IP BOS at the present time, the project is set to be expanded to other border points, also outside the Netherlands.

Lastly it should be noted that the Energiekamer is also working together with market parties to improve the current use-it-or-lose-it system. This involves a better understanding throughout the market of when capacity is deemed to be unused and therewith prone to be brought back to the market. The role of nominations is also under consideration in this respect.

4.1.2. The regulation of the tasks of transmission and distribution companies

Network Tariffs

TSO

In 2008, the Energiekamer established new methodologies in order to calculate the efficiency rebate for the legal tasks of the TSO concerning transport and transport related services, the delivery of flexibility services, the performing of balancing and the quality conversion service.

In 2009 these methodologies led to the establishment of new efficiency rebates and new tariffs for 2009. In The Netherlands tariffs are established per entry- and exit point on the basis of cost reflection. It is the Regulator who sets the tariffs. Apart from the methodology, which takes into account all the legal obligations that tariffs have to adhere to, GTS submits, upon the regulator's request, a tariff proposal with all the tariffs for all the services per entry- and exit point.

Incentive regulation for a TSO is more difficult to implement than for the DSOs because the possibilities for a comparable benchmark are very limited: there is after all only one national TSO. However, the current method establishes the allowed income at the end of the regulatory period (in this case 2012). Income can be generated by tariffs, which are established by the regulator as well. Since the TSO's costs cannot be higher than its income, there is an incentive for the TSO to work in an efficient manner. The regulation of income is done per legal task that is assigned to the TSO. This enlarges the influence of the regulator and diminishes the possibilities of the TSO to make up for an inefficient behaviour in one area of their business by being more efficient in another. In establishing total allowed income, efficiency factors are established for operational costs (including labour and energy costs) and capital costs (RAB, WACC and depreciation). Moreover, the methodology and the resulting efficiency factors do accommodate investment and expansion in and of the network.

In calculating the total income, established by the Energiekamer, back to individual tariffs, use is made of assumptions concerning volume. It is the TSO that takes the 'volume risk'. This means that when it sells more than expected, the regulated tariffs can make up for more than his costs. This gives an incentive to use the network as efficiently as possible whilst offering a good quality of services.

DSOs

For DSOs a similar division of competences applies. The Energiekamer establishes one method for the calculation of efficiency factors (or x-factors) for the DSOs. Per DSO a different efficiency factor is established on the basis of the economic theory of 'yardstick competition'. The individual x-factors result in individual tariff proposals drawn up by the DSOs and submitted to the Energiekamer, who then establishes the final tariffs.

This system of yardstick competition ensures that there are incentives to increase efficiency. Higher profits can be achieved if a company realises a growth in efficiency which exceeds the average growth in efficiency. The efficiency is measured by dividing the cost of the companies by their standardised output. The costs are reported according to a standardised method and network companies are required to adhere to Regulatory Accounting Rules (RAR).

Of course there are differences between the 12 DSOs. These differences can sometimes result in a different cost level for the different DSOs. In some cases the Energiekamer has allowed a DSO to make more costs than another, for example when the DSO is active in an areas where there are a great number of water crossings.

In 2008 new and individual x-factors and tariffs have been established for all the DSOs.

Balancing

The existing balancing regime in the Netherlands is a system within which for each individual shipper-portfolio the entry gas and the exit gas are settled. Balance is obtained when the difference between the entry gas and the exit gas stays within specified tolerance limits.

The following tolerance limits are utilized:

- Hourly tolerance;
- Cumulative tolerance;
- Daily margin.

Imbalance occurs when the difference between exit gas and entry gas exceeds these tolerance limits.

Currently a new balancing regime is under development. Its implementation is foreseen for late 2010.

The main conditions for the new regime are:

- Transparent market mechanism for both balancing the Dutch Grid and settlement of individual imbalances. Direct link between the costs of balancing and the charges to shippers.
- Market parties are stimulated tot participate in the balancing of the network
- The transmission network operator obtains rights to enforce system integrity
- The transmission network operator receives a fair return on investment

4.1.3. Effective Unbundling

Introduction

There is a separate TSO for gas and electricity (TenneT for electricity and GTS for gas). In addition, there are twelve DSOs. All the DSOs supply gas and electricity, with the exception of three. In the Netherlands, DSOs (with fewer than 100,000 customers) are not treated any differently to the large DSOs. All DSOs are fully owned by Dutch municipalities and provinces. The two TSOs are fully owned by the State of the Netherlands. For a more detailed explanation of the unbundling requirements for TSOs and DSOs, we refer to the 2008 National Report.

TSO

Since July 2005, TSOs must be structured in such a way that their commercial and public activities are clearly distinguishable. Gas Transport Services B.V. (GTS) has complied with this obligation since that date. TSOs may still be part of a holding company in which commercial activities are carried out. In case of the Dutch gas TSO, GTS, the commercial holding company is 'Gasunie' and GTS performs the legal tasks that are applicable on the transmission system operator, owning the grid. GTS (including of course its network) is fully state-owned. Finally, TSOs are obliged to keep separate accounts (also per legal task).

DSOs

DSOs must be structured as separate legal entities outside a vertically integrated company. The Law on the Independence of Network Operators ("Wet Onafhankelijk Netbeheer") stipulates that the management of electricity grids and gas networks, on the one hand, and on the other hand, the production, supply and trade in electricity and gas, may no longer occur within one and the same group of companies. Additional legal requirements have been effected enhancing public and independent network operations. The Law contains requirements to guarantee the financial independence of network operators. The Law stipulates that energy transmission services must be legally separated from other commercial services. The articles prescribing ownership unbundling entered into force on July 2008. By January 1st, 2011, unbundling is to be completed. The Energiekamer supervises this process.

With a thirty minute interruption period per end user per year, Dutch networks belong to the most reliable networks in Europe. In an unbundled situation the operational independence of the network operator is safeguarded in the strongest possible way. This eliminates the necessity to monitor for potential preferential treatment extended by the network operator to other parts of the holding.

All the DSOs are legally separated from activities unrelated to network management. The ownership of assets is also separated in the case of all network operators. Two large DSO's (Alliander and Enexis) have been separated in the last months after their unbundling plans have been judged. Two other large companies (Delta and Eneco) have not been separated yet, however plans for unbundling have been submitted and will be assessed in 2009.

4.2. Competition Issues

4.2.1. Description of the wholesale market¹⁴

The Dutch monitor Energy Markets provides a good description of the wholesale gas market in the Netherlands. The monitor (in Dutch) and an English summary can be found at www.the.energiekamer.nl.

Market structure

The Dutch gas market is described on the basis of the tables below in relation to domestic consumption, production, import.

¹⁴ Defined as covering any transaction of gas between market participants other than final end use customers.

Consumption, domestic production and import (TWh) in 2008.¹⁵

	Consumption	Production	Import	Export
High-calorific gas	128.3	385.0	212.8	317.6
Low-calorific gas	291.1	429.2	0.0	276.1

Available capacity (GWh/h) in 2008

	Production*	Import	Export	
High-calorific gas	54.1	38.3	66.1	
Low-calorific gas	119.6	0	87.5	

* Conservative estimate based on highest production in 2008

The DSOs and the TSO (Gastransport Services; GTS) are responsible for the transmission and distribution of gas. A regulated TPA regime applies to both the national and regional transmission of gas and a licensing system is applied.

The Nederlandse Aardolie Maatschappij (hereinafter "NAM") is one of the largest producers of natural gas in the Netherlands and is a subsidiary of Exxon (50%) and Shell (50%). To date, NAM owns two installations for underground gas storage (in the Norg and Grijpskerk gas fields). Taqa owns a gas storage facility in Alkmaar. However, on average only 6% of the storage capacity of the three facilities (Alkmaar, Norg and Grijpskerk) is available to the market by TPA. The storage operators do not consider the former gas fields as storage facilities but as production facilities, and have reserved the remaining 96% for so-called production support and preservation of the flexibility characteristics of the Groningen gasfield.

Due to domestic and foreign demand, various storage facilities are expected to be added in the Netherlands. For the Dutch market, Essent and Nuon make use of German salt caverns near Epe. Essent is also developing plans to convert the Waalwijk gas field into a gas storage facility. Nuon, GTS and Akzo Nobel have started a project to create a new gas storage facility in a salt cavern near Zuidwending.

Technical characteristics of gas storage in the Netherlands

Operator	Facility	Type	Gas quality	Working volume (GWh)	Withdrawal Capacity (GW)
NAM	Grijpskerk	Gasfield	H-gas	14,654	22.4
NAM	Norg	Gasfield	L-gas	29,308	22.4
TAQA	Alkmaar	Gasfield	L-gas	4,884.5	14.7
Essent	Essent Epe (GER)	Salt Cavern	L-gas	2,423	4
Nuon	Nuon Epe (GER)	Salt Cavern	L-gas	1,551.5	4.9
RWE	Kalle (GER)	Aquifer	H-gas	2,480	4.6

¹⁵ Source: Monitor Energy Markets

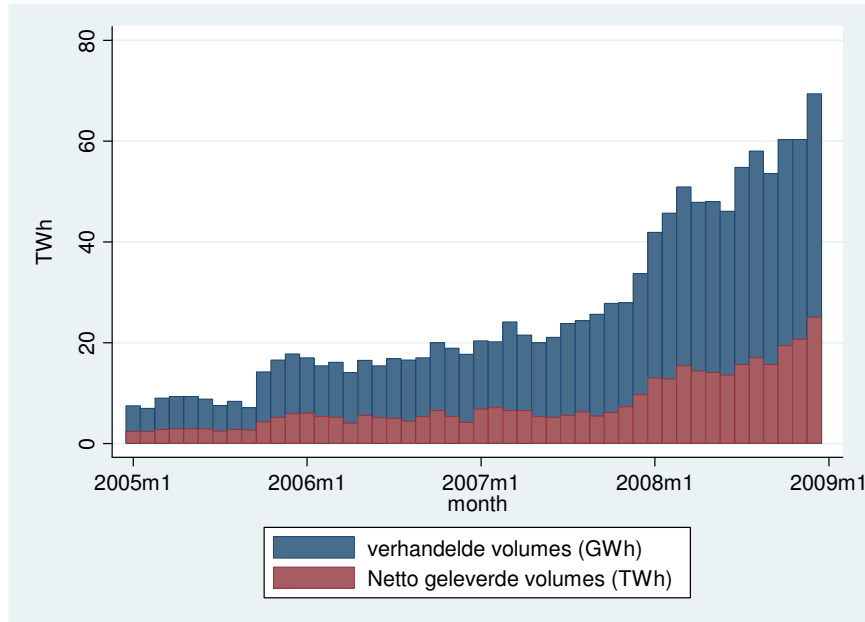
The Balgzand-Bacton Pipeline (BBL), an interconnector between the Netherlands and the United Kingdom, came on-line in 2006. The BBL is a joint venture of Gasunie, Eon Ruhrgas and Fluxys. The capacity has been sold to Gasunie Trade & Supply, Eon Ruhrgas Trade and Wingas.

As of July 2009, the quality conversion (the conversion from high calorific gas to low calorific gas) has become a regular system service, for which the costs are fully socialized through the entry and exit tariffs. In the past shippers were obliged to book quality conversion capacity on top of entry and exit capacity, and the costs were socialized for 50%.

Title Transfer Facility

In 2008 the trade on the Title Transfer Facility (TTF) increased, which indicates an improvement of the marketplace.

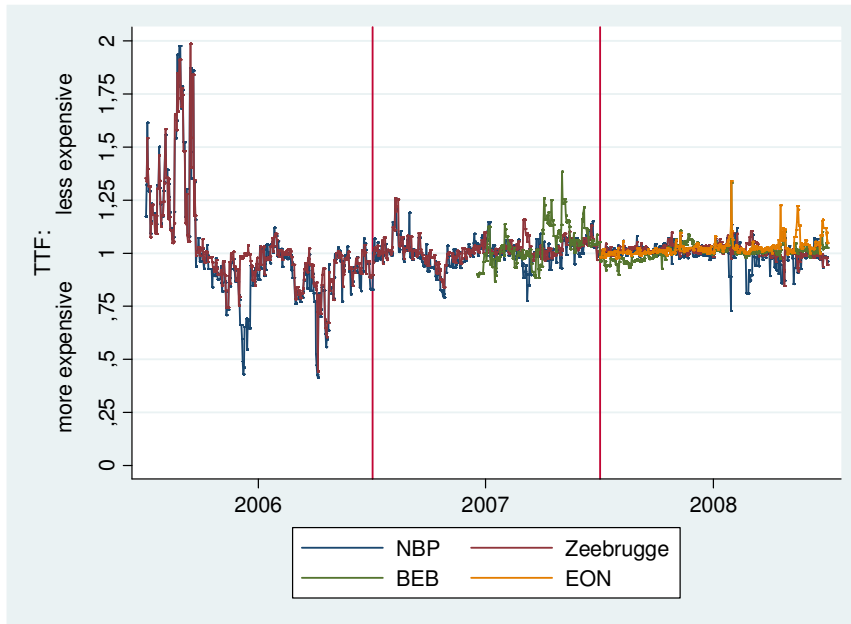
Fig. 4.2.1: Development of traded and delivered volumes on TTF



Integration with neighbouring markets

It is obvious that the integration of the Dutch wholesale market with neighbouring markets is developing. The volume traded on TTF is still low compared to NBP, but the prices on TTF are noticeably integrating with prices on NBP and Zeebrugge.

Fig. 4.2.2: Price-difference on neighbouring markets compared to TTF



An important focus of the Energiekamer is the usage of interconnection capacity, especially on the interconnectors that are contractually congested. The import capacity on the Dutch-German border is known to be fully booked, but seldom fully used. With the apparent rise of under-usage of scarce import capacity the importance for measures to increase the availability of unused capacity for third parties also rises. The final aim is to achieve a proper and functional secondary market for capacity. The Energiekamer is awaiting the results from pilot projects that have been started to test secondary capacity trade. Secondly, the Energiekamer explores all possibilities of the use-it-or-lose-it provisions of the current European regulation.

Outlook

Bearing in mind the outcome of the market monitor and judgment of the Energiekamer, the Energiekamer has prioritised the following issues:

- Improve the availability of import capacity for the market.
- Make sure the new balancing regime is market based system and is introduced as soon as possible.
- Stimulating trade on TTF.
- Improve the availability of storage capacity

4.2.2. Description of the gas retail market

The Energiekamer doesn't have all the figures that can be broken down into all the segments that are requested.

Market structure

Three suppliers on the Dutch gas market have a market share that exceeds 5% of the small consumer segment. This is a change compared to last year when there were four companies with a market share of over 5%. The fourth company (not being one of the large incumbents) fell below the 5% threshold over the year 2008. The structure of the Dutch gas retail market is characterised by three large incumbent suppliers and a large number of smaller suppliers, some

of which are very small. The four largest suppliers together have a market share of 81.5% in the small-consumer segment. The other 18 independent players each have a market share of less than 5%. On December 31st, 2008, a total of 29 parties had a licence to supply gas.

C3 index	G
1 July 2004	86%
31 December 2004	84%
1 July 2005	83%
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1 July 2006	79%
31 December 2006	79%
1 July 2007	80%
31 December 2007	78%
1 July 2008	78%
31 December 2008	77%

Table 4.2.2-a: Development of the C3 index for gas since liberalisation of the market

Entry and exit, international penetration

Since full liberalisation, the following takeovers of Dutch gas suppliers by foreign companies took place:

<2004

Obragas and Haarlemmermeergas – RWE (Germany)

2004 / 2005

NRE - E.ON (Germany)

Intergas - Dong (Denmark)

Oxxio - Centrica (UK)

Spark Energy - Electrabel (Belgium)

2006

Cogas - Electrabel (Belgium)

Rendo - Electrabel (Belgium)

2007

None

2008

None

Some (but not all) of the Dutch company names or brands have been replaced. By means of these takeovers, the foreign companies have established a platform from which they wish to increase their share of the Dutch market.

Between January 1st, 2008 and December 31st, 2008 three new licenses for the supply of gas were issued and two licenses were revoked (one of those voluntarily by a supplier who changed name and continued to supply gas and one of them was revoked by the Energiekamer). New applications for licences are being prepared at the moment.

Vertical integration of supply/production

There is no vertical integration of supply (to small-consumers) and gas production. The gas producer in the Netherlands does not sell directly to the small-consumer market.

Vertical integration of supply/network

Vertical integration of the grid companies and supply companies amounts to 80%, expressed as market shares of the small-consumer market for gas. The rest of the market is supplied by either independent entrants or formerly integrated companies that have fully unbundled voluntarily.

Switches

Between January 1st, 2008 and December 31st, 2008 9,1% of all consumers switched gas supplier. This percentage is up from the previous 12 month-period and is the highest percentage since full liberalisation. The graph below provides an overview of monthly switching rates since full liberalisation.

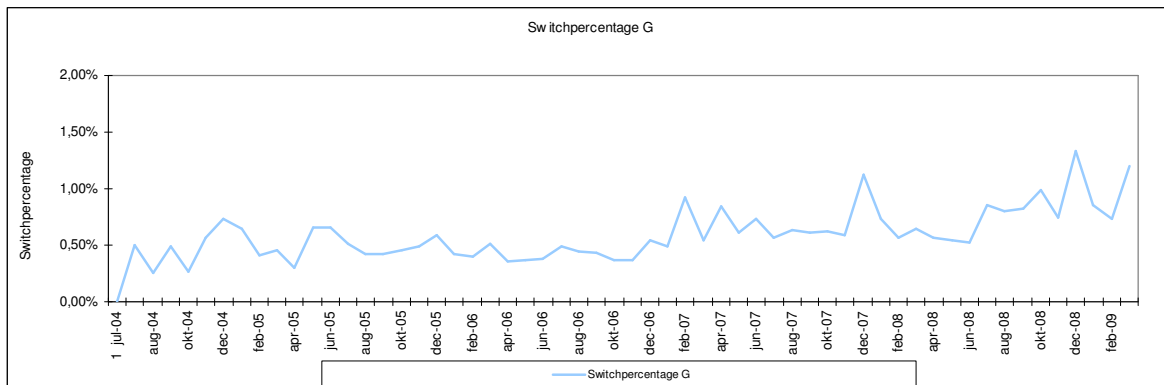


Figure 4.2.2-b: Development of monthly switch rates for gas since market liberalisation

Although switching rates are up from previous years, the perceived switching threshold is still fairly high. Consumers still feel unsure about available information, are afraid of administrative problems (although this has vastly improved since early liberalisation), or are just not interested in the “product” energy. This high perceived switching threshold has been identified as one of the most pressing issues in the Dutch retail market. Therefore the Energiekamer will try to activate small users in 2009.

Switching procedures

The procedure is identical to the procedure for electricity:

If gas consumers wish to switch suppliers, they must inform the new supplier verbal (for instance, by telephone) or in writing of the intention to switch and must then authorise this new supplier to request the necessary information and take the necessary action (for instance, requesting information from the connection register of the gas network operator and making arrangements in relation to programme management). In addition to this, consumers must provide the meter reading. If they fail to do so, they automatically accept that the final settlement by the former supplier will be based on an estimate of consumption. After completing these steps, the consumer has done all that is necessary to switch. In this regard, the Energiekamer advises consumers to ascertain whether the new supplier respects the duration of the contract with the former supplier. The customer is then certain that he will not be faced with parallel

contracts and possible cancellation fees. After this, the consumer doesn't need to take any further action and can wait for confirmation from the new supplier and the final settlement from the previous supplier.

The new supplier submits a request for a switch to the grid operator. The meter reading accompanying the switch has to be sent to the grid operator by the new supplier as soon as possible, but at the latest 15 working days after the date of the switch. Immediately after receiving the request for a switch, the grid operator carries out a number of checks (for instance, whether the application was submitted at least five days before the intended date of the switch). If the result of the checks is positive, the grid operator confirms acceptance of the switch at the latest on the working day after receipt of the notification of the switch from the former and the intended new supplier. At that moment, the grid operator also enters the change into the connection register. The gas network operator passes on the meter reading(s) as soon as possible, but at the latest on the 30th working day after the date of the switch, to both the former and the new supplier. The grid operator also notifies the former supplier of the consumption so that the former supplier can draw up the final invoice.

Problems with switching

Satisfaction regarding switching procedures and administrative procedures in general increased, as was the case for 2007. The main problem with switching was and still is that the majority of switches are based on meter estimates instead of actual meter readings, just as last year. This results in consumers not recognising their final settlement bill with the old supplier. This then leads to complaints and requests for corrected bills. In the long run this problem should be eliminated by the introduction of the smart meters which is foreseen for the near future.

Prices, tariffs and tax rate per component of the invoice

The transmission costs

The transmission tariffs are regulated. The tariffs may differ from one DSO to the next. The overview below is based on a weighted average (number of connections) of all regional network operators¹⁶.

- Standing charges per annum (EUR): 18,00
- Tariffs per unit of the volume parameter per annum (capacity-related tariff category) (EUR): 12,90. Household consumers mostly have G4 meters, so annual costs will be 4 * 12,90 = EUR 51,60.
- Consumption-related tariff per Nm³ (EUR per normal m³): 0,0107
- Periodic connection fee¹⁷ (weighted average, EUR): 20,91

For an average Dutch consumer this amounts to an annual total of EUR 107.

The overview above will change slightly from January 1st, 2009. From that moment onwards the grid costs will no longer be based on gas consumption. This implies that the Nm³ tariff will disappear and will be replaced with one capacity based tariff.

Metering costs

¹⁶ In 2008 the transmission cost were change on July 1st 2008 therefore the numbers presented here are based on the tariffs that were in place from July 2008 onwards.

¹⁷ The periodic connection fee for Gas is not regulated. NMa has no direct influence on this tariff.

The metering tariffs¹⁸ (meter rental) are not regulated at the moment. On average the Dutch consumer pays around EUR 19 a year for gas meter rental.

Energy supply costs

Supply tariffs are not regulated. There is however a form of tariff “supervision” whereby the Energiekamer has to approve all individual (new) tariff proposals by suppliers. On December 31st, 2008, a household with an average consumption (1530 m³ per annum) paid a net amount of EUR 688 on an annual basis (approximately 35% of the consumer's total gas bill). This results in an average supply tariff (excluding VAT and including fixed costs for gas supply) of EUR 0.45 per m³. The Energiekamer assesses the fairness of these tariffs.

Taxes

Various taxes are levied on the supply of energy. On December 31st, 2008, the energy tax amounted to EUR 0.1554 per m³ of gas supplied. A Value added tax (VAT) of 19% is charged on the entire net amount, including energy tax. In addition, a tax rebate of EUR 199, excluding VAT, is applied to the entire energy bill (see also the Electricity retail market section).

4.2.3. Measures to avoid the abuse of dominance

These measures are identical to those in the Electricity retail market and will therefore not be repeated.

The Energiekamer yearly monitors the competition and barriers to competition in the wholesale markets for gas and electricity. The monitoring report is published on the website of the Energiekamer: www.Energiekamer.nl. Part of the monitoring project is establishing the level of concentration for the different parts of the gas market (see also 4.2.1). This exercise is however meant to monitor the concentration over the years, not to establish market dominance.

In 2005 the Energiekamer established that GasTerra is the dominant supplier of flexibility. To avoid further abuse of dominance the Energiekamer put in place regulation that obliged GasTerra to offer flexibility via the TSO (GTS), so shippers can always buy flexibility via the TSO. On top of that the tariffs of GasTerra's flexibility products are checked on fairness by the Energiekamer. In 2007 a renewed study into the dominance of flexibility was carried out, and still GasTerra was considered dominant. The afore mentioned measures are now extended until 2011.

¹⁸ Meter rental is often reported under the item "Transmission costs" in the annual accounts, but does not actually belong there. The metering market is a liberalised market and the tariff is therefore not regulated. The consumer is free to choose a supplier.

5. Security of Supply

For further details we refer to the Monitoring Report on Security of Supply in Relation to Electricity and Gas¹⁹ by the Ministry of Economic Affairs, which will be sent to DG TREN of the European Commission based on article 4 of Directive 2003/54/EC (electricity) and article 5 Directive 2003/55/EC Gas.

5.1. Electricity

Demand and Generation

In 2008, the total consumption of electricity (excluding losses) was approximately 119.5 TWh, which means a small increase of 0.8 TWh compared to 2007. Domestic generation increased with 2,5 TWh to 103,6 TWh and the gross import increased with 1,7 TWh to 15.9 TWh.

At this moment, the total installed generation capacity in the Netherlands is approximately 24 GW. Of which renewable production capacity (mainly wind) accounts for 1,8 GW.

During 2007, about 0.4 GW new generation capacity was put into operation, of which 0.1 GW larger thermal capacity, 0.1 GW small thermal power plants (CHP) and 0.2 GW renewable generation (mainly wind).

There is a large increase of planned new generation capacity between 2010 and 2016. In total 18,5 GW new large scale thermal generation capacity has been reported for the period until 2015. The question remains which amount of new generation capacity will actually come into operation. This has become even more uncertain due to the economic crisis.

Framework for the construction of infrastructure

Generation

The Energiekamer does not have a direct role in investments and the granting of licences for new generation facilities. There are no implicit or explicit mechanisms to promote the construction of new production capacity. The TSO does contract control power (250 MW for 2006 and 300 MW for 2007) and emergency power (300 MW) for balancing. This is therefore a source of revenues in addition to the normal electricity market for a small part of the production capacity. The TSO reports to the Minister of Economic Affairs with regard to the development of security of supply. If necessary, the Minister may decide to invoke an additional capacity mechanism, the so-called safety net. This safety net means that the TSO will contract additional power for a number of years to create an incentive for investment. In 2008, it was again decided to not invoke this safety net for the time being.

Network

The framework for the construction of transmission infrastructure is as follows: the Energiekamer regulates the tariffs of network operators, both the TSO and DSOs.

In so far as this relates to DSOs, the Energiekamer monitors the output of network quality, the duration of interruptions per year per connection. If network quality is good, tariffs may increase. If the quality of the network is low, the tariffs will be reduced. The network operators are

¹⁹ Monitoringsrapportage Leveringszekerheid Elektriciteit en Gas.

required to maintain the networks and finance normal expansion of the transmission networks from these tariff revenues. the Energiekamer does not play a role in this. The network operators are free to decide on the construction of infrastructure. If a special expansion of the transmission networks is planned, a special tariff increase can be requested. This application must be submitted to the Energiekamer and must be assessed by the Energiekamer.

On the other hand, the TSO must finance replacement investments from turnover generated from tariffs (turnover regulation). A tariff increase or use of the proceeds of the cross border capacity auctions may be requested for all other investments (obviously within the constraints of European and national legislation).

The planning criteria for the design of the TSO's 380 kV and 220 kV grids, including the connections with the downstream grids, are set out in the Grid Codes that have to be approved by the Energiekamer. The TSO assesses how these criteria can be met in various growth scenarios. The TSO publishes the results in a Quality and Capacity Plan. This plan has to meet the Ministerial Regulations in Relation to Quality Aspects of Electricity Grid and Gas Network Management and must be assessed by the Energiekamer. The above-mentioned planning process also applies to the planning of the grids of the DSO's.

Infrastructure projects (network)

The most important infrastructure projects are the following, two of these are international submarine cable connections:

Since 2002, construction has been in progress to strengthen and expand the 380 kV grid in the west of the Netherlands (the so-called "Randstad 380 kV Project") through the Maasvlakte - Bleiswijk and Diemen–Zaandam–Beverwijk sections of the grid. This project is of specific importance for increased consumption in the region as well as the connection of the large amount of planned new generation facilities as discussed above.

A regulated submarine cable connection of 700 MW between the Netherlands and Norway (NorNed) by the TSOs of these two countries was put into operation in May 2008.

On 27 June 2007, BritNed Development Ltd received an exemption by the Dutch Minister of Economic Affairs for a merchant submarine cable connection between the Netherlands and the United Kingdom. BritNed is a joint venture of NLink International B.V. (hereinafter "NLink"), a fully-owned subsidiary of TenneT Holding B.V. and National Grid International Ltd, a fully-owned subsidiary of the British National Grid plc. BritNed expects the interconnection to come into operation in mid-2010. The average capacity of the interconnection will be 1000MW. BritNed intends to make the capacity of the cable available to users through day-ahead implicit auctioning and yearly and monthly explicit auctions of capacity rights.

Furthermore TenneT is in the preparatory phase of two new interconnectors: one together with RWE Transportnetz Strom between the Netherlands and Germany and one together with Energinet.dk between the Netherlands and Denmark. Both cables are intended to be regulated interconnectors.

For more information on infrastructure projects, we refer you to TenneT's Quality and Capacity Plan 2008-2014.²⁰

²⁰ Kwaliteits- en Capaciteitsplan 2008-2014

5.2. Gas and 2004/67/EC

In this paragraph, an overview is provided of the present situation regarding the security of supply of gas in the Netherlands.

The balance of supply and demand on the national market

For a more detailed explanation, we refer to the Quality and Capacity Document and the (yearly) Transport Insight report, published by GTS.²¹

The graph below shows that the Netherlands has more than sufficient gas reserves to meet domestic demand. From 2012 onwards, there is a clear decline in domestic production. This includes a cap on production from the Groningen field. This cap has been set at an annual volume of 425 bcm for the period from 2006 to 2015. This means an average annual volume of 42.5 bcm.

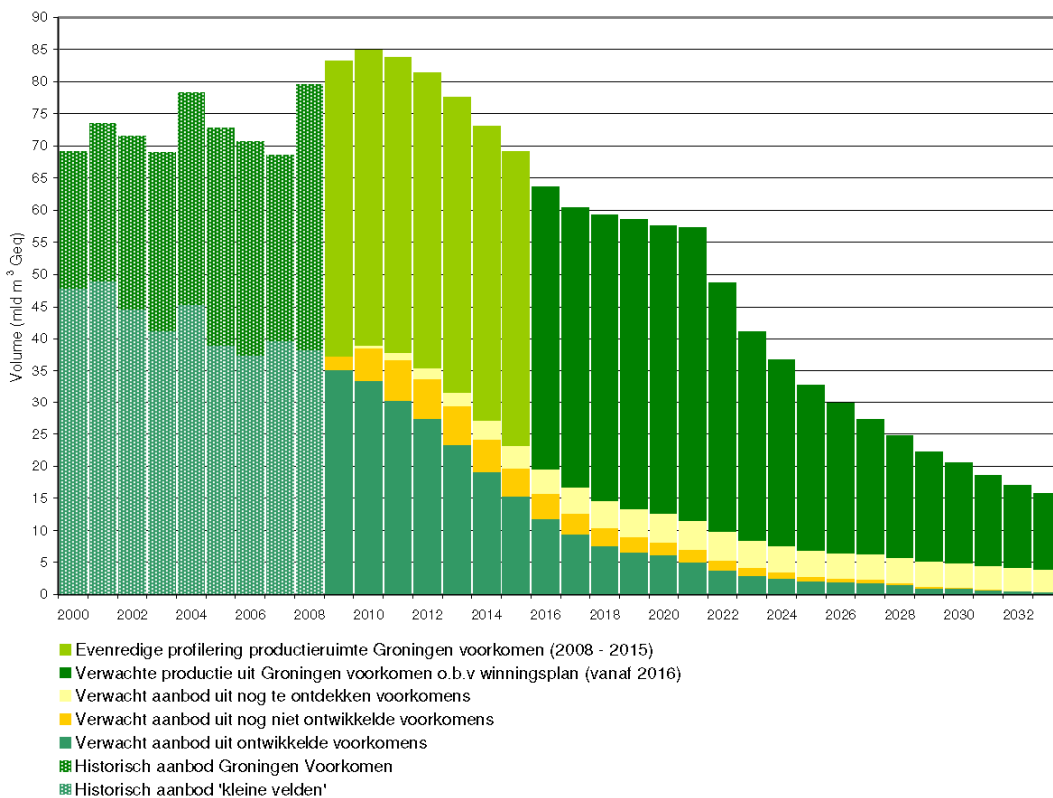


Figure 5.2-a: expected domestic production up to 2020. Source: TNO-NITG

Translation:

- proportionally profile of production room Groningen (2008 – 2015)
- Expected production from Groningen based on extraction plan
- Expected production from sources to be discovered

²¹ Both documents are available on the GTS website www.gastransportservices.nl.

- *Expected production from sources to be developed*
- *Expected production from developed sources*
- *Historic production Groningen*
- *Historic production 'small fields'*

Additional production and network capacity planned or under construction

In answer to the questions regarding additional production capacity planned, we refer to part (a), where both the total quantity of production and the production cap set for the Netherlands are discussed.

As a result of a further fall in production from small fields, additional quantities of gas will have to be imported to maintain security of supply.²²

Imported gas can be supplied by pipeline. At several entry points in the Northeast of the Netherlands, shippers have already shown a real need to contract additional import capacity. The transmission network will have to be expanded to accommodate this need. As a result of an open season procedure, GTS has announced an investment of EUR 1,1 billion in expansion of the north-south route through the Netherlands, due to this more import capacity will be available.

In addition to this, there are plans to transmit gas originating from NEGP through the Dutch gas network. In addition to a fall in production from small fields, in time production from the Groningen field will also decline. Additional import capacity will also be required to compensate this decline.

Finally, additional gas storage will be required. The decline of gas production from Groningen implies an decline in available flexibility as well. To compensate for this other sources for (seasonal) flexibility will be needed in the future.

Measures taken for peak load or the default of one or more suppliers

Directive 2004/67/EC obliges Member States to protect the supply of gas to domestic consumers, for instance in the event of extremely cold weather conditions. In the Netherlands, the Decision in Relation to Security of Supply Pursuant to the Gas Act²³ was drawn up for this purpose. To prevent situations that leave small consumers without heating during an extremely cold day, due to a shortage of production and transmission capacity, this decision stipulates that the TSO is responsible for reserving volume and capacity for the additional demand from small consumers if the effective temperature during the day falls below -9°C. The volume and capacity is limited to the hours in which the hourly consumption by small consumers exceeds the maximum hourly consumption of a "-9°C day". The licence holder obtains this volume and capacity on an obligatory basis through the TSO. Together with the freely contactable basic supply for -9°C and warmer, the licence holder can therefore fully supply small consumers up to and including -17°C. The TSO is required to charge tariffs which are in line with the European market for the supply of gas during peak demand. This ensures that the TSO as the sole supplier of gas to meet peak demand will not be abused. Also, the TSO is obliged to obtain the necessary supplies as efficiently as possible.

²² See also GTS's report "Survey Small Fields" ["*Overzicht ramingen gas uit kleine velden*"], published at <http://www.gastransportservices.nl/>.

²³ Besluit Leveringszekerheid Gaswet, Netherlands Bulletin of Acts and Decrees, 2004, No. 170.

6. Public Service Issues

6.1. Liberalisation of the small consumer market

Since the 1st of July 2004, the energy market has been fully liberalised. In addition to the phased liberalisation of large consumers at an earlier stage, as of July 1st, 2004 small consumers have also been able to choose their own supplier of gas and or electricity. From this date the supply tariffs were no longer regulated, although the Energiekamer surveys the fairness of supply tariffs. This liberalisation of the small-consumer market requires extra awareness of the interests of the small consumer. Legislation and regulations have been amended for this. For instance, Addendum A of Directive 2003/54/EC on regulations in relation to the protection of consumers has been implemented in Dutch energy regulation. The role of the Energiekamer is to monitor (and ultimately enforce) compliance with the rules for the protection of small consumers and to ensure that the operation of market forces reaches an adequate level. The protection of small consumers is therefore one of the Energiekamer's core tasks.

This protection has been implemented in various ways. An important theme is promoting a transparent market. The Energiekamer therefore informs small consumers of the current and actual development of the small consumer market by publishing indicators regarding price trends and the exercise of freedom of choice. For instance, price comparison websites are monitored with regard to their independence, correctness and reliability. In addition to this, small consumers are given insight into the number of complaints, ordered according to topic, which the Energiekamer receives about the various energy companies. Once every year, the Energiekamer also investigates the way in which energy suppliers handle complaints. In addition to this, the administrative processes (including the invoicing problems) of various energy companies have also been the subject of investigation. On a quarterly basis, the Energiekamer publishes an overview of the administrative performance of suppliers on its website.

6.2. Supply licence

A supplier who supplies small consumers has to have a supply licence. When a supply licence is granted, the Energiekamer assesses whether the supplier has the necessary organisational, financial and technical qualities to carry out its task properly and whether it has shown that, within reason, it can be expected to comply with the obligations applicable to suppliers under the Gas Act and the Electricity Act. In addition to this, the Energiekamer assesses whether a supplier uses clear offers and agreements which state the level of the tariffs and their composition. Furthermore, the Energiekamer assesses whether the supplier has a transparent and fair payment scheme and a transparent and fair scheme for cancelling and dissolving agreements. A supplier also has to show that it is able to process complaints and disputes adequately. In this regard, most energy companies make use of an independent arbitration board which adjudicates disputes between small consumers and energy companies. Further conditions may be included in specific supply licences, which ensure further protection of small consumers, such as rules relating to telephone canvassing and the supplier's obligation to notify small consumers of changes to supply tariffs.

In addition to this and in cooperation with the industry, the Energiekamer has drawn up general rules with which suppliers have to comply. For instance, the legislation offers the possibility of limiting the cancellation fee which a supplier may charge if a small consumer cancels his contract prematurely. By promulgating a policy rule, the Energiekamer has made use of this possibility. The Energiekamer has also drawn up a policy rule that guarantees the timely dispatch of (final) settlements and a policy rule that specifies some basic requirements for information given to consumers by energy suppliers. In addition, the Energiekamer and the sector have drawn up rules on a voluntary basis which have resulted in clear energy bills.

6.3. Safety-net regulation

Although the supply tariffs for small consumers are not regulated by the Energiekamer, the various supply tariffs charged to small consumers are checked by the Energiekamer with regard to their fairness. If the Energiekamer deems certain supply tariffs unfair, a maximum tariff can be determined. This protects small consumers from excessive tariffs. Each year the Energiekamer requires several suppliers to give an explanation about the level of their supply tariffs. The suppliers in question will have to explain the level of the tariffs set. A possible explanation may be that the superior quality of the product offered justifies a higher price. If the explanation is not adequate, the supplier must adjust the tariffs. To this day however the Energiekamer hasn't needed to determine a maximum tariff for a supplier.

6.4. Policy Rule on information requirements for energy suppliers

In 2009 the original 2007 Policy Rule will be revised in such a way that it will be applicable to all communication channels. The 2007 Policy Rule was only applied to the websites of the energy suppliers. The aim of this Policy Rule is to provide the consumers with correct, transparent and complete information about the tariffs and conditions that are connected to a contract. The revision will specify what is meant by correct, complete and transparent information on tariffs and conditions. The Policy Rule differentiates between information that is actively requested for by a consumer (through a supplier's website for example) and information that is given to the consumer without request (acquisition call by telephone for example). This is because information provided on a website can be more extensive than information that is given during a phone call (the risk of information overload is significant during a phone conversation). Therefore, the most essential information necessary to make an evaluation of the offer must be provided during the call and all the rest should be provided in a confirmation letter. The Energiekamer plans to actively use this new Policy Rule in the future to enforce these information requirements.

6.5. Power labelling

Obligatory power labelling also relates to creating a greater measure of transparency. From 2005, energy suppliers are obliged to annually provide consumers with data relating to the way in which the power supplied in the previous year was generated. For this reason, consumers receive a so-called power label with their energy bill stating the source of the electricity supply at. The consumer can use this information when making a decision about a switch from one energy supplier to another.

6.6. Customer acquisition and retention - Code of Conduct

The Energiekamer still receives questions and complaints about the way (potential) customers are approached and acquired, although the number of complaints has decreased compared to last year. This relates mainly to complaints about telephone canvassing and supply contracts entered into by door-to-door salesman. The problem is partly due to customer acquisition. Because of this and in consultation with the energy sector, the Energiekamer has drawn up a code of conduct. This code of conduct has been signed by almost all energy suppliers that are active on the market. The parties which have not signed the code will be monitored (more) closely. In the case of energy companies which adhere to the code of conduct, the code may function as a 'quality stamp' of proper acquisition practices. If the Energiekamer receives reports that a company has infringed the code of conduct, it will intensify its supervision and conduct an investigation.

6.7. Disconnection policy

Following an increase in questions and complaints from small consumers about disconnections in 2006, the Energiekamer has analysed the disconnection and debt collection policies of network operators and suppliers. A Ministerial Rule (MR) is now in place for the winter period (October through April). The MR prevents network operators and suppliers from disconnecting a consumer if the consumer is in the process of debt restructuring with a recognised body. Only if a consumer refuses to enter debt restructuring or if the consumer is turned down by the restructuring authority, then the network company/supplier can disconnect the consumer.