

**Annual Report
by the Office of Energy Regulation (DTe)
to the European Commission**

2006 National Report

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1 Executive summary / major developments in the last year

General overview

On 1 July 2005 DTe became part of the Netherlands Competition Authority (NMa). As of this date, a single market regulator has been charged with supervision of general competition law, as well as the specific regulation of the electricity and gas markets.

The focus on the regional integration of energy markets to increase competition has sharpened. With regard to the development of regional gas markets, DTe is currently involved in the Electricity Regional Initiative Central West and chairs the Gas Regional Initiative North-North-West. However, DTe is concerned that both the lack of regulation and the lack of inter-TSO cooperation hampers effective progress. We underline that we are in a transitional process from national to regional markets. During this transition phase, the high level of concentration remains a concern on the national market.

Activity on the retail market has improved slightly. The market share of the largest three suppliers has declined by a small percentage (compared to 2005) and the number of (new) suppliers remains high. Competition has not yet led to high price differentiation and accordingly high switch rates. The entrance of large international suppliers to the Dutch retail market may fuel further competition.

Developments on the Dutch electricity market

The liquidity of the wholesale electricity market has improved marginally. Trading opportunities, transparency and churn volumes on both Endex and APX have improved.

Construction of the NorNed cable started in 2005. This is a high-voltage cable with a capacity of 700 MW between Norway and the Netherlands. DTe approved the construction of the NorNed cable in December 2004.

At year-end 2005, CRE, CREG and DTe published a so-called Roadmap with various initiatives to stimulate the regional integration of wholesale electricity markets. The deliverables in this Roadmap received widespread support from market parties in various countries.

Developments on the Dutch gas market

The liquidity of the Dutch wholesale gas market has grown, especially that of the H-cal market. The new infrastructural developments are supporting this growth trend. At year-end 2005 DTe perceived a high level of interest in the possible construction of LNG regassification terminals in the Netherlands. This resulted in a consultation document on LNG in the Netherlands. In 2006 the first exemption request for rTPA on LNG terminals was filed. Furthermore the construction of the Balgzand-Bacton Pipeline started in 2005 and will be finalised in 2007.

In 2005 the development of the national grid code started. This code was developed to provide fair and transparent access to the grid and to system services.

DTe decided at the end of 2005 that the TSO of the national gas network (Gasunie Transmission Services B.V. (GTS)) could function more efficiently. DTe concluded this after the calculation of the sales and the costs of GTS during the period of 2006-2009. DTe imposed a price cap on GTS. This price cap means that the GTS's revenues have to decrease by 4.2% every year, for example by lowering tariffs. GTS can transport as much gas as possible, but higher sales will not

automatically lead to higher profits for GTS, but in principle to lower tariffs. This is in the best interests of both suppliers and consumers.

The availability of flexibility services is essential to ensure that a gas market that functions well. These services enable shippers to manage their portfolios through predictable and unpredictable changes in gas demand, for example in the event of sharp fluctuations in temperature. DTe decided at the end of 2005 to appoint GTS as the alternative supplier of gas flexibility services as of 1 January 2006. In taking this decision, DTe has changed the economic position of the largest supplier of gas flexibility services at this moment, namely Gasunie Trade & Supply. The result of this decision is that flexibility services are made available to the market as a separate service. Nevertheless flexibility and gas, as a commodity, can also still be bought as a package from Gasunie Trade & Supply. Suppliers and buyers of gas have more choice in purchasing flexibility services. DTe aims for a more competitive gas market because competition is still inadequate.

2 Regulation and performance of the electricity market

2.1 Regulatory issues [article 23(1) except “h”]

2.1.1 General

The Dutch electricity market has been fully liberalised. This market was fully liberalised on 1 July 2004. On this date, the last of three phases took effect and, as a result, small consumers were free to choose their own electricity supplier.

2.1.2 Management and allocation of interconnection capacity and mechanisms to deal with congestion

Degree of congestion

In general, congestion occurs in the direction of imports (in other words, from Germany/Belgium towards the Netherlands) on the cross-border connections with Belgium and Germany. The prices in this direction are therefore also high. In the direction of exports (in other words, from the Netherlands to Belgium/Germany) there is generally no or little congestion. Transmission restrictions within the Netherlands occur less often and, in addition, are solved by the grid managers.

The regulated system

The interconnector capacity available to the market is allocated to market parties by means of explicit auctions. Three different categories are distinguished on the auctions: the year-ahead auction (capacity for an entire year), the month-ahead auction (capacity for an entire month) and the day-ahead auction (capacity for a particular clock hour the next day). TenneT carries out the auctions jointly with the managers of foreign sections of the cross-border connections. 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 meet demand in full, the price for this capacity (the clearing price) is EUR 0. In the event of scarcity, that is if the demand for capacity exceeds the supply of capacity, the clearing price is equal to the lowest offer accepted.

The parties to which transmission capacity is allocated or transferred on the year-ahead or month-ahead auctions are obliged to notify TenneT at the latest by 0800 hrs on the day prior to the transmission of their intention to make use of this capacity. Capacity which is not nominated is made available for the day-ahead auction without compensation. The parties to which import capacity has been allocated on the day-ahead auction 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 reverts to TenneT.

New developments in relation to the regulated system

On 5 July 2005, the three regulators of the Netherlands, Belgium and France carried out a joint consultation in relation to market integration. On the basis of the results of this consultation, a joint roadmap was drawn up to promote market integration in the region. The management and allocation of interconnector capacity is an important focus of this joint roadmap towards market integration.

In the light of the above-mentioned roadmap, the Netherlands Competition Authority took a decision on 6 June 2006 which allows the grid manager of the national high-voltage grid, TenneT, to auction more capacity on the year-ahead auction. The annual capacity will also be auctioned in two rounds (in September and November), rather than in a single round. Capacity amounting to 1300 MW for 2007 will be auctioned on the year-ahead auction of transmission capacity at the Belgian and German border, rather than the 900 MW at present. By transferring 400 MW of the 750 MW from the day-ahead auction to the year-ahead auction, the market parties can reserve more transmission capacity for a longer period. This provides more certainty with regard to future import and export opportunities and promotes the entry of new market parties.

Obligation to provide information

The TSO must publish the secure, available cross-border transmission capacity for the following calendar year on an hourly basis before 15 September. On a daily basis, before 0830 hours, the TSO must announce the capacity available for spot transmission for the following day, specified per connection (in all cases 30 days in advance). 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). Publication of the day-ahead nominations is not obligatory. It is not yet obligatory to publish the actual flows realised on the cross-border connections.

Degree of integration of congestion management and wholesale markets

The present method of congestion management through explicit auctions is a method of allocating cross-border capacity which is in line with the market. The timing of these auctions is well aligned to the activities on the spot market. However, it appears from monitoring activities that the utilisation of cross-border connections is not yet optimal. The grid managers use the market for control and reserve power for internal congestion. These restrictions are therefore also solved in a manner which is in line with the market.

At this moment, the three national grid managers and the three electricity exchanges in the Netherlands, Belgium and France are working to develop a system of coupled implicit auctions for the allocation of day-ahead capacity (Day-Ahead Market Coupling, DAMC). The three regulators involved have stated that they support such a system, in principle, provided a number of conditions are met, for instance in relation to the algorithm, transparent cost allocation and the possibility of expanding the new system to other markets. The new system of market coupling may possibly even be introduced in 2006 for the Dutch-Belgian and Belgian-French borders. The (explicit) year-ahead and month-ahead auctions will continue to exist on these borders.

Congestion management is very important for the operation of the Dutch wholesale markets. Approximately 20% to 30% 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. The available import capacity is important for price formation on the wholesale markets due to the high percentage of imported electricity.

2.1.3 The regulation of the tasks of the transmission and distribution companies

The Netherlands has 10 grid companies for the supply of electricity. In this regard, grid companies which belong to a single holding company count as a single grid company. In addition, there is one national grid company, namely TenneT.

The supply companies are regulated by DTe. DTe uses a system of yardstick competition. The allowed revenues of a company are adjusted annually by $1 + \text{CPI} - x + q$. CPI is the Consumer Price Index and q represents the quality factor. The yardstick is determined by the average growth in total factor productivity (x). Each year, supply companies present a tariff proposal for all tariff components. This proposal is assessed and approved by DTe. Consumers can consult the tariffs determined annually on DTe's website (www.dte.nl). DTe applies a system of turnover regulation to the national grid manager. In principle, $\text{CPI} - x$ also applies in this case. Matters such as quality are not regulated in the case of the national grid manager.

Determination of tariffs by DSOs

Before the start of a regulatory period (lasting at least three and at most five years), an estimate is made of the x factor, based on the general growth in productivity in the previous regulatory period. At the end of a regulatory period, the actual growth in productivity is measured. Differences between the realised and estimated growth in productivity are taken into account in the following regulatory period. As of the third regulatory period (2007-2009), the differences between the realised and estimated growth in productivity are no longer taken into account in the following regulatory period.

This system of yardstick competition provides incentives to increase productivity. Higher profits can be achieved if a company realises a growth in productivity which exceeds the average growth in productivity. The productivity is measured by dividing the costs of the company by their standardised output. The costs are determined according to a standardised method. This is made possible by Regulatory Accounting Rules (RAR). Every supply company submits these cost data to DTe annually.

A possible danger of the system of yardstick competition is that companies may reduce their investments 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), or the average interruption per consumer. To avoid this, DTe introduced quality regulation as of 1 January 2005, which includes interruptions experienced by consumers on the low-voltage grid (<50kV). DTe has included quality regulation in the system of yardstick competition. The allowed revenues of a company are adjusted annually by $1 + \text{CPI} - x + q$. If an individual company has above or below average quality, high/lower revenues are allowed. The annual average interruption duration per consumer at the low-voltage level amounted to approximately 26 minutes in 2005; in 2004 this was 23 minutes.

The average transmission tariff of supply companies is approximately EUR 0.0333 per kWh (single tariff). A household with an average consumption of 3500 kWh pays the supply company EUR 18 in standing charges and EUR 117 in variable transmission costs. Together this amounts to EUR 135 per year in transmission costs paid to supply companies. These amounts exclude VAT. More information on the regulated tariff structure of grid companies can be obtained from DTe's website:

http://www.dte.nl/nederlands/elektriciteit/transmission/tariefregulering/vaststelling_aansluit_en_transmissiontarieven_elektriciteit_2006.asp.

Determination of the TSO's tariffs

DTe also determines the TSO's tariffs to so-called annual tariff decisions. An x factor, the efficiency incentive, is determined for this purpose at the beginning of a regulatory period. Following this, the annual allowed turnover is determined using $CPI - x$. To guarantee security of supply in the Netherlands, a separate assessment system is used for assessing investments in expansion. In other words, the utility and necessity of these investments must be assessed and, if the utility and necessity has been determined, a correction will be made to the turnover.

The system services tariff amounts to EUR 0.00099 per kWh in 2006. A household with an average consumption of 3500 kWh pays EUR 3.5 per annum.

Together with the supply and transmission tariff of EUR 139, the total transmission costs for an average household amount to EUR 142.5 per annum.

Balancing in general

TenneT, the manager of the national high-voltage grid, organises the 'market' for control and reserve power. On an annual basis, TenneT contracts a certain quantity of control and emergency power. TenneT calls for bids for reserve power if an imbalance arises. The cost of this is recovered from the responsible party (the system of programme management). The market for control and reserve power is a special market, which is used by TenneT to balance real-time disruptions to the balance of the national transmission grid. Electricity is deployed through this market to maintain the balance in the Netherlands (and therefore to maintain the level of exchange with other 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 execution by TenneT. The bids may be changed up to one hour 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; as a result, 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 electricity programmes. If there is a difference, then imbalance is said to exist. In the event of an 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 lowest 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 price ladder for power used to increase capacity. On the side of the price ladder for power used to decrease capacity, the prices determined by the highest bid used for balancing (for more information see DTe's report "*Transparantie voor onbalanssystematiek, Onderzoek en maatregelen*" ["*Transparency for the balancing system: research and measures*"], The Hague, 2

June 2004” and the technical publications by TenneT, "System Balancing in the Netherlands" and "On the value of Dutch Imbalance", 23 July 2003, <http://www.tennet.org/publicaties/technisch/>).

Balancing: specific issues

- The arrangements for balancing are set out in the technical codes adopted by DTe. For instance, section 2.2 of the System Code discusses the rights and obligations of TenneT with regard to the maintenance of the energy balance. Chapter 3 of the System Code discusses the topic of programme management (or balancing responsibility), while section 3.9, for instance, contains the rules for determining the balancing price. The detailed implementation rules are determined by TenneT itself. The method of programme responsibility is based on the assumption that smaller grid users can outsource their programme responsibility. As a result, positive and negative imbalances can be aggregated. This ensures that smaller parties or new entrants are not placed at a disadvantage. The determination of balancing prices therefore corresponds to the market as closely as possible. In principle, all imbalances are settled at the same price. Only in periods in which TenneT both increases and decreases capacity do settlements occur at two prices.
- The balancing interval is 15 minutes.
- There is a single balancing area which is the same as the control area and which also corresponds to the entire electricity supply system in the Netherlands. Within this area, TenneT regulates the balance between supply and demand.
- Cross-border trade in the time domain of balancing is not possible. Offers of control power must correspond to positions within the Dutch system. However, TenneT has contracted part of its emergency power from foreign TSOs. Emergency power is not offered through the bidding system.
- Bids on the market for control and reserve power can be submitted up to one hour prior to the Programme Time Unit (15 minutes).
- Changes to electricity programmes may commence every hour on the hour and must be submitted at least one hour prior to the clock hour. However, there is still not a central market place for intraday trade. The Dutch power exchange APX plans to start a central intraday marketplace in mid-September 2006. Cross-border intraday trade is also not possible. It is expected that cross-border intraday trade will be possible at the beginning of 2007. Making cross-border intraday trade possible is an important part of the roadmap drawn up jointly by the Dutch, Belgian and French regulators to promote regional market integration.
- Imbalances are charged to programme managers in accordance with the method set out in the System Code. The prices are determined on the market for control and reserve power.
- Settlement of balancing

The process and the timetable for settling imbalances is set out in section 3.7 of the System Code and section 4.2 of the Measurement Code. At the latest after 10 days the grid managers distribute their definitive measurement data. Payments between programme managers and TenneT occur on a monthly basis.
- Information from the TSO to the market parties

The programme managers receive data regarding the programmes, the measurement values, the imbalances and prices of the previous day(s) from TenneT before 1700 hrs on every working day. (System Code, section 3.7.5).

2.1.4 Effective unbundling

See section 3.1.4. This topic is discussed together with the gas market.

2.2 Competition issues [article 23(8) and 23(1)(h)]

2.2.1 Description of the wholesale market

Market structure

The Dutch wholesale market can be subdivided into various marketplaces on which supply and demand meet. The following marketplaces can be distinguished:

- 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 (these are so-called profile contracts) are entered into 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 this market, electricity is often sold on numerous times through various intermediaries who clear transactions, the so-called "brokers". Various brokers are active on the Dutch market.

In addition, Endex has existed 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.

Transmission grid

Finally, there is the 'market' for control and reserve power organised by TenneT, the manager of the national high-voltage grid. 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.

Import

In addition to the Dutch electricity wholesale market, electricity is also imported from neighbouring countries. Under normal operations, the maximum transmission capacity on the interconnectors is 3650 MW, of which 3350 MW is available to the market. The allocation of the available cross-border capacity has taken place since 1 January 2000 by means of an auction which TenneT organises in conjunction with the German and Belgian grid managers involved. The auction is a regulated activity in accordance with Dutch law and the codes derived from this. The capacity is auctioned in the categories of year-ahead, month-ahead and day-ahead.

Within the wholesale market for electricity, there is a strong relationship between the various marketplaces mentioned above and arbitrage occurs. 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.

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 by issuing tenders (for instance, control power, emergency power and black-start power). Finally, there is a market for control and reserve power (that is, 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, then imbalance is said to exist. 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 (for more information see DTe's report "*Transparantie voor onbalanssystematiek, Onderzoek en maatregelen*" ["*Transparency for the balancing system: research and measures*", The Hague, 2 June 2004]). DTe 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)*].

The level of liquidity

DTe reports on the liquidity of the electricity wholesale market (for more information, see the report "*Marktmonitor, ontwikkeling van de groothandelsmarkt voor elektriciteit 2005, Resultaten*", The Hague, June 2006). DTe uses various indicators to measure the liquidity of the market (see also "*Monitor methode groothandelsmarkt elektriciteit*", Reference Document, The Hague, June 2005). The conclusions of this report are given below.

The most important external developments in 2005 are the start made with expansion of domestic production, European consolidation of energy companies, the start to the formation of

a regional market and a global increase in energy prices. Since 2005, CO₂ credits have been traded globally.

On the domestic market, the price increases and fluctuations in the second half of 2005 were striking. In 2005, prices increased more sharply than in previous years. In total, year-ahead contracts increased in price from January 2005 onwards by more than 20%. In the first half of 2005, the prices of day-ahead contracts followed the 2004 trend, prices on APX were comparable to those on EEX and Powernext, and a number of price peaks occurred comparable to those in 2004. The average price and the number of price peaks for day-ahead contracts increased remarkably from September 2005 compared to 2004: the average price increased by more than 30% and while the price on APX exceeded EUR 250 twice in 2004, this occurred 62 times in the second half of 2005. From mid-November 2005, the situation in the Netherlands was comparable to that in France and Germany. OTC futures also showed greater price fluctuations in 2005 than in 2004. Higher prices and volatility, however, were not translated on a one-to-one basis into stronger spark spreads: where the spark spreads of short-term peak contracts increased by more than 50%, taking into account CO₂ costs, in the case of some types of contracts, the spark spreads of year-ahead contracts fell by more than 50% as a result of higher gas prices, even without discounting CO₂. This is not an indication that the spark spread is structurally higher. However, no comprehensive explanation has yet been given for the higher short-term spark spreads.

The Dutch marketplaces have become more liquid in the past year. Since 2005, it is not only possible to clear transactions on Endex, but trading is also possible. More traders are active and both the traded volumes and the churn on both the APX and the OTC markets have increased by more than 15%. The bid-call spread of OTC contracts has decreased by 5% to 20%, as has the price difference between comparable APX and OTC contracts. The prices on the APX remain as sensitive to additional demand as they were in 2004. An international comparison shows that the Dutch market is lagging behind the German market less with regard to liquidity. Arbitrage between Dutch and German prices has also improved.

The market for electricity production, measured on the basis of the installed capacity, continued to be highly concentrated in 2005: the degree of concentration (HHI), without taking into account imports, is 2020 and, with imports, 1725. Measured on the basis of actual production realised, taking into account imports, the Dutch market for electricity production is fairly concentrated with a degree of concentration of 1648. This is an improvement compared to 2004. The degree of concentration in the Netherlands is comparable to that in Germany, lower than that in most neighbouring countries, but higher than that in the United Kingdom.

In 2005 numerous producers indicated that they wished to invest in new and replacement production capacity. The total capacity of the plans submitted corresponds to 30% of present domestic production capacity. Expansion is important to meet future demand and appears to be a sign that producers have sufficient incentive to invest in the market. Many of the units planned are coal-fired, which is a sign that the market expects that gas will possibly remain more expensive than coal and that the additional CO₂ cost of coal combustion will not outweigh this difference. Higher domestic production with a greater emphasis on coal-fired units, rather than gas-fired units, may further contribute to the creation of a Northwest European market: the spreads may converge and the pressure on cross-border connections may decrease.

The transparency of the Dutch market has improved slightly. More information is available on prices and volumes of OTC futures contracts as a result of the development of Endex. At the

same time, as in 2004, numerous traders stated that they regard the provision of information to be inadequate.

On the basis of analyses of liquidity, transparency and competition, as summarised above, DTe concludes that the operation of market forces on the Dutch electricity wholesale market improved slightly in 2005.

The liquidity of the Dutch electricity wholesale market has increased relative to 2003, but remains relatively low. As a result, the development of the efficient operation of market forces is obstructed. Germany, the United Kingdom and the Scandinavian countries perform better with regard to liquidity. One of the reasons for this is that insufficient progress has been made with the introduction of measures already recommended by DTe in 2004 to improve transparency, liquidity and the operation of market forces. DTe is of the opinion that the degree of transparency of the electricity wholesale markets of European countries should be harmonised.

Active role of buyers on the wholesale market

DTe 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 (see the report "*Benutting vraagrespons in de geliberaliseerde elektriciteitsmarkt*", Research for the Ministry of Economic Affairs, 18 May 2004). It can be concluded from this research 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.

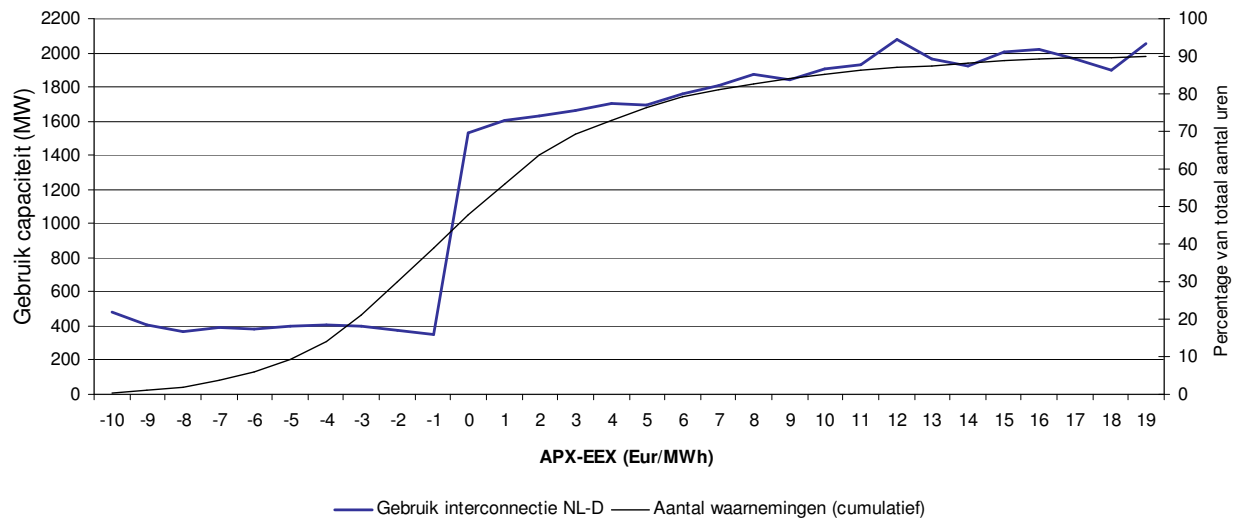
Degree of integration with markets in neighbouring countries

The Dutch market is connected to the Belgian and German markets through various interconnectors. Furthermore, the construction of a cable between the Netherlands and Norway is planned. The Netherlands is a net importer of electricity. 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 1 January 2001, the allocation of the available cross-border capacity has taken place by means of an auction which TenneT organises jointly with the German and Belgian grid managers involved. The capacity is auctioned in the categories year-ahead, month-ahead and day-ahead. Nevertheless, the Dutch market is mainly a national market. The Belgian market is still insufficiently developed and insufficiently transparent. 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.

Figure 3.2.1 shows the price difference for 2005 between the APX (The Netherlands) and the EEX (Germany) in relation to the utilisation of the available interconnector capacity between the Netherlands and Germany. Where the APX price was higher than the EEX price, consideration was given to the import capacity utilised. Where the EEX price was higher than the APX price, consideration was given to the export capacity utilised.

Figure 3.2.1: Utilisation of interconnector capacity between the Netherlands and Germany in relation to the price difference between the Netherlands and Germany

Benutting interconnectiecapaciteit NL-D gegeven prijsverschil APX-EEX (2005)



Capacity utilisation (MW)	Utilisation of interconnector capacity between the Netherlands and Germany in relation to the price difference between APX and EEX (2005)	Percentage of total number of hours
	APX-EEX (EUR/MWh)	
	Interconnector capacity Netherlands-Germany	Number of observations (cumulative)

Taking into account the fact that the average available import capacity from Germany is approximately 2200 MW and the export capacity is approximately 3500 MW, it appears that the available interconnector capacity is still far from being optimally utilised.

DTe has published a consultation document entitled "Consultation Document on Mergers in the Energy Markets" [*Consultatiedocument Concentraties Energiemarkten*], The Hague, June 2006. The aim of this document is to consult all parties involved and parties interested in the development of the energy market in the Netherlands and beyond on the investigations which it has carried out into (i) the definition of (possible) relevant markets in the electricity sector and (ii) the way in which DTe views possible mergers and acquisitions on these markets. On the basis of the responses submitted, DTe will draw up a vision document in 2006.

The consultation document states that DTe 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 it be possible that the geographical market is larger.

The price differences between the Netherlands and neighbouring countries are fairly large. During the day, in particular, electricity wholesale prices in the Netherlands are higher than in Belgium and Germany.

Takeovers

On 1-1-2006, NUON's Berkelcentrale power station was acquired by Morgan Stanley. This is a 60 MW total energy plant.

2.2.2 Description of the electricity retail market

DTe does not have figures which can be broken down into the requested segments, nor does it have 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.

Market structure

The structure of the Dutch electricity retail market is characterised by four large suppliers and a large number of (very) small suppliers. There are four Dutch electricity suppliers with a share of the market for the supply of electricity to small consumers which exceeds 5%. Compared to last year, one party has been added to these.

C3 index	E
1 July 2004	86%
1 January 2005	84%
1 July 2005	83%
1 January 2006	80%
1 July 2006	81%

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

The three largest suppliers together have a market share of approximately 80% in the small consumer segment. In total, there are 23 independent players (parent companies) active on the market for small consumers of electricity with various levels of activity on the market. Of these parties, 11 belong to the group of national "incumbents". On 1 June 2006, there were a total of 33 energy suppliers in the possession of an electricity supply licence.

Entries and exits, and international penetration

Since full liberalisation, the following acquisitions 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)

By means of these acquisitions, the foreign companies have established a platform from which they wish to increase their share of the Dutch market. Up until now, the Dutch company name/brands have been retained. All the foreign entrants have ambitious growth targets on the Dutch market.

In addition to entries by foreign companies, domestic companies have also entered and left the market. In 2006, the licence of one supplier on the electricity market was withdrawn, one application for a licence is being processed at this moment and at least two applications are being prepared.

Vertical integration, supply/production and distribution grid

Distribution: production

The degree of integration of production and supply companies is expressed here as 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%. Since several foreign players with their own capacity in the Netherlands have entered the retail market since liberalisation and because one of the three largest energy companies has started to develop its own electricity generation capacity, at the moment this figure is approximately 88% (assuming that the parties acquired by foreign parties can also make use of the production capacity of their "parent companies").

Distribution: grid

Of the companies which hold licences to distribute electricity, 16 have a direct or indirect link to a grid manager. These 16 licence holders constitute 11 players which operate independently of each other. Of the companies which hold licences for the supply of electricity, 15 did not have a link to a grid manager. These 15 licence holders are all independent players.

Switches

Between 1 July 2004 (the moment of full liberalisation) and 1 June 2006, a total of 1,022,058 electricity customers switched suppliers. This is approximately 13.5% of the total number of domestic consumers. Already prior to the moment at which the final phase of market liberalisation took effect, it was possible to switch electricity suppliers and customers preferred to purchase green electricity rather than grey electricity. If these consumers are taken into account, 1,230,058 electricity consumers have switched suppliers since March 2004. This amounts to approximately 16.3% of all small consumer connections. The figure below provides an overview of this.

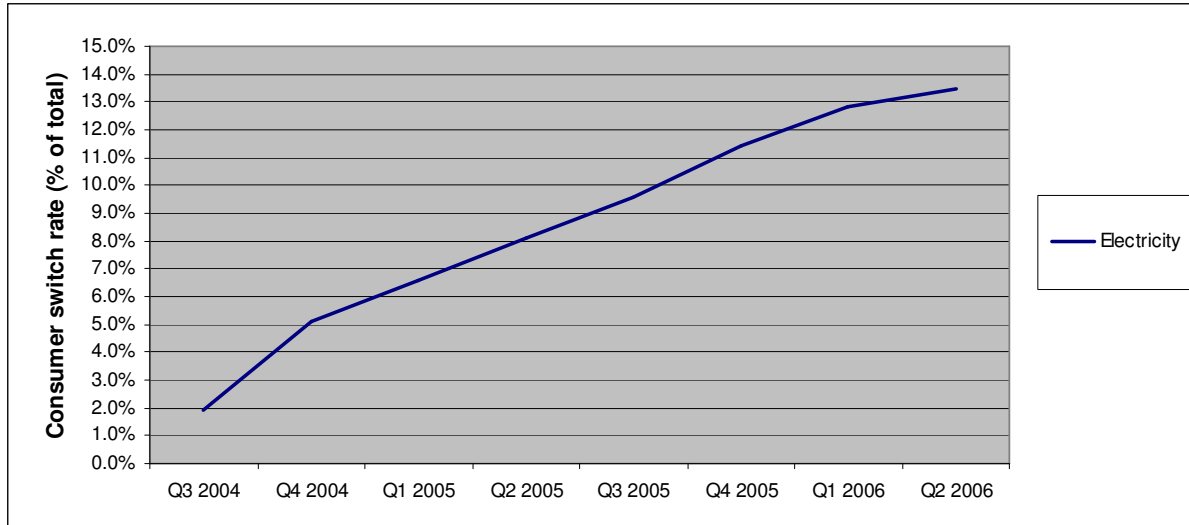


Figure 3.2.2-b: Development of switch rates for electricity since market liberalisation

Switching procedures

If electricity consumers wish to switch electricity suppliers, the electricity consumers must inform the new supplier in writing or verbally (for instance, by telephone) of their intention to switch and must authorise this new supplier to request the necessary information and to take the necessary action (for instance, requesting information from the connection register of the grid manager and making arrangements in relation to programme management). In addition, the consumers must provide the meter reading. If they fail to do the latter, they accept that the final settlement by the former supplier will be based on an estimate of consumption. After completing the above, the consumer has done all that is necessary to switch. In this regard, DTe advises consumers to ascertain whether the supplier respects the duration of the contract with the former supplier. The customer is then certain that he will not unexpectedly be charged a cancellation fee. After this, the consumer need not take any further action and waits 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 manager. The meter reading accompanying the switch has to be sent to the grid manager 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 manager 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 manager 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 manager also enters the change into the connection register. The grid manager 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 manager also notifies the former supplier of the consumption so that the former supplier can draw up the final invoice.

Problems with switching

For various reasons, applications for switches may be refused. Between 1 June 2004 and 1 June 2006, approximately 121,500 applications for switches were rejected (of which

approximately 54,500 in the past year). The main reasons for this are: (1) the application was received too early or too late, (2) it did not involve a real switch, (3) the EAN code of the connection does not belong to the grid manager or is unknown, and (4) the connection was blocked for switching and changes of address or had been disconnected due to consumers moving into the premises.

Prices, tariffs and tax rate per component of the invoice

Transmission costs

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

1. Consumption-related costs (variable costs, possibly specified with high and low 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 costs are determined annually by DTe and are therefore regulated. The exceptions to this are the costs for metering services. In the case of metering services, consumers may choose from various suppliers and metering tariffs have also been liberalised.

The transmission tariffs may differ from one grid manager to the next. Table 3.2.2-c provides an overview of the tariffs.

Company	Standing charge for the transmission service	kWh tariff single	Periodic connection fee	One-off connection fee	System services tariff
DELTA Netwerkbedrijf B.V.	18	0.0277	21.96	575.80	
ENECO Edelnets Delfland B.V., ENECO Netbeheer B.V. en ENECO Netbeheer Midden- Holland B.V.	18	0.0411	20.76	484.65	
ENECO Netbeheer Weert N.V., ENECO Netbeheer Zuid- Kennemerland B.V. en ENBU B.V.	18	0.0378	16.20	639.93	
Essent Netwerk B.V.	18	0.0268	29.20	605.00	
InfraMosane N.V.	18	0.0317	29.20	605.00	
N.V. Continuon Netbeheer	18	0.0328	15.96	557.50	
Netbeheerder Centraal Overijssel B.V.	18	0.0352	13.14	567.24	
NRE Netwerk B.V.	18	0.0305	13.80	460.62	
ONS Netbeheer B.V.	18	0.0412	7.56	501.15	
RENDO Netbeheer B.V.	18	0.0331	21.10	576.00	
Westland Energie Infrastructuur B.V.	18	0.0365	12.81	624.35	
TenneT TSO B.V.	18				0.00099

Table 3.2.2-c: Regulated electricity transmission costs

Metering costs

The metering tariffs¹ (meter rental) are not regulated. At this moment, DTe does not have all the relevant data.

Distribution costs

The supply tariffs are not regulated and consist of the cost of the electricity consumed and fixed costs. On 1 January 2006, a household with an average consumption (3375 kWh per annum) paid a net amount of EUR 254 in supply costs on an annual basis² (approximately 30% of the consumer's total energy bill). This includes fixed costs. This results in an average supply tariff (including the fixed supply costs) of EUR 0.075 per kWh. DTe assesses 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 70.50 per MWh of electricity supplied on 1 January 2006. Value Added Tax (VAT) amounting to 19% is charged on the amount for electricity delivered (consumption and non-consumption related tariffs) and the energy tax. In addition, a tax rebate of EUR 197 (excluding VAT) is applied (to the entire energy bill). In addition, the energy company collects the MEP levy of EUR 54 per annum (a levy in accordance with the Electricity Production (Environmental Quality) Act [*Wet milieukwaliteit elektriciteitsproductie (MEP)*]). During 2006, the Balkenende II government decided to revoke the MEP levy.

2.2.3 Measures to avoid the abuse of dominance

General

DTe has the statutory duty to monitor the markets. To carry out this duty, DTe makes use of various public sources of information (APX prices, OTC prices, bid-ask spreads, import-export volumes etc.). Secondly, DTe requests all production facilities (with a capacity exceeding 15 MW) to provide the following data twice a year: actual production (MWh) per hour per facility, efficiency per production facility, non-availability (and the reason for non-availability) per hour of the production facility. DTe is also authorised to request data from other market parties, such as suppliers. This information is used for monitoring at the system level. If necessary (for instance, in the event of higher prices and lower market efficiency), DTe may decide to start detailed monitoring into the behaviour of market parties.

DTe has proposed VPPs as a means of increasing the liquidity of the Dutch market. An important effect of VPPs is the increase in the number of suppliers of production capacity. This increases the liquidity of the electricity market and limits the market dominance of existing producers. DTe has consulted the sector on this, but has not yet advised the Ministry.

Competition measures

¹ 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.

² Based on figures from Statistics Netherlands.

Despite the fact that the supply tariffs are not regulated, DTe has the statutory power to impose tariff reductions on supply companies if the tariffs are unreasonably high, in DTe's opinion. However, this has never occurred.

With regard to transparency, DTe 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, DTe conducts research annually into the correctness and completeness of data published on websites which compare prices. In addition, DTe investigates whether invoices are clear as well as the correctness of invoices. The satisfaction of consumers with the provision of information by energy companies has already been included in numerous investigations. This aspect is also discussed in DTe's consumer research in 2006. The results of this research have not yet been published.

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

- the Policy Rule on Invoicing Deadlines for Energy [*Beleidsregel factureringstermijnen energie*] (the requirement to send 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 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;
- 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 2 June 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;
- the Ministerial Scheme for Consumers and Monitoring, Pursuant to the Electricity Act of 1998 and the Gas Act stipulates requirements with regard to 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 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, DTe monitors the administrative processes (and accompanying communication) in relation to switches and changes of address on a monthly basis, so that consumers and other market parties (grid managers and suppliers) are not obstructed by any administrative processes of energy companies. The results are published once a quarter on DTe's website.

With regard to unbundling, the law stipulates that energy transmission services must be legally separated from other commercial services. At this moment, politicians are considering a direct

intervention into the structure of the market to prevent distortion of competition between suppliers which have or do not have their own distribution grids. The Energy Companies Division Bill [*Splitsingswetsvoorstel*] (which is intended to bring about the economic division of these companies) has been passed by the Lower House of the Dutch parliament. The Bill will probably be tabled in the Upper House of the Dutch Parliament in the second half of 2006.

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

3 Regulation and performance of the gas market

3.1 Regulatory issues [article 25(1)]

3.1.1 General

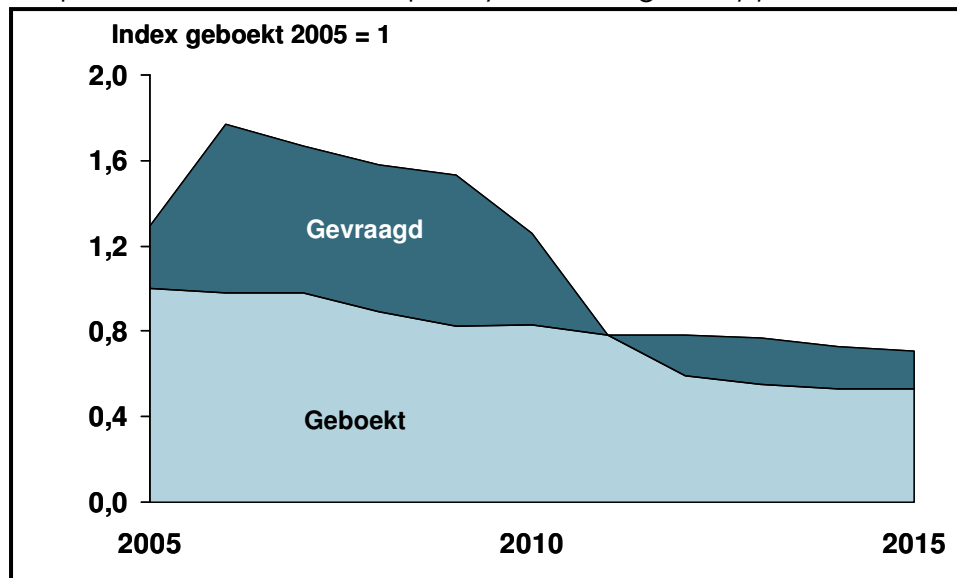
The Dutch gas market has been fully liberalised. This market was fully liberalised on 1 July 2004. On this date, the last of three phases took effect and, as a result, small consumers were free to choose their own gas supplier.

3.1.2 Management and allocation of interconnection capacity and mechanisms to deal with congestions

Degree of congestion

There appears to be contractual congestion with regard to import capacity for H-cal gas. Although no concrete cases are (yet) known, there is also concern about future physical congestion. There are also indications that contractual congestion exists in relation to export capacity.

Requested and reserved capacity according to *shippers*. Source: *Shipper questionnaire*,



DTe's Gas Monitor.

Index reserved 2005 = 1	
	Requested
	Reserved

The approach to congestion by GTS, the national gas network manager

GTS offers interruptible transmission in order to meet the demand for scarce cross-border transmission capacity. In addition, GTS is considering further investments to meet demand. At present, DTe is assessing whether it can approve these investments as appreciable investments, in terms of the Gas Act.

The regulated system

In order to feed gas into the Dutch system (entry) or to take gas from the system (exit), capacity must be reserved with GTS, as the national gas network manager. A certain capacity is reserved (measured in m³/u or MW) at a certain entry or exit point. Every entry or exit point handles gas of one quality. GTS accepts reservations of capacity on a "first-come-first-served" basis. As long as the demand for capacity does not exceed the capacity available with certainty, firm reservations are made. However, since it often appears to be the case in practice that shippers take less gas than they reserve, because they reserve capacity on the basis of their peak requirement, GTS can continue to accept reservations. Reservations beyond the total available capacity are made on an interruptible basis. Interruptible capacity is cheaper than firm capacity, but is accompanied by the risk that the capacity will not be available. There are numerous tranches with various combinations of prices and degrees of certainty. Quality conversion cannot be reserved on an interruptible basis, although this is possible for import and export capacity. Firm import and export capacity can only be reserved in the direction of the physical flow of gas. Reservations against the flow (backhaul) are always interruptible.

Shippers (non-balancing), which have reserved capacity, must indicate ("nominate") one gas day in advance how much they actually wish to use. They can change these values up to two hours beforehand ("renomination"). Shippers lose capacity which is reserved but not nominated ("use it or lose it"). If the actual entry deviates from the exit beyond the permissible limits, an imbalance arises.

Obligation to provide information, parallel market and new developments

The rules with regard to the allocation of transmission capacity Use-It-Or-Lose-It (UIOLI) and relevant market information are worked out in more detail in the Conditions for the Transmission of Gas – TSO of 30 June 2006³ (see sections 2.1, 2.2, 2.4 and 4.2 up to and including 4.4 and 6). The national gas network manager must adhere to these conditions.

Hardly any parallel trade occurs. As a result, scarce capacity is not allocated optimally.

Regulation 1775/2005 has only been in force for a short period. The national gas network manager and DTe are jointly considering how the gas network manager can comply with the obligations contained in this.

³ See also http://www.dte.nl/images/Transportvoorwaarden%20Gas%20-%20LNB_tcm7-88896.pdf

3.1.3 Regulatory regime for regional gas network managers

The Netherlands has 12 gas network companies for the supply of gas. These companies are regulated by DTe. DTe uses a system of yardstick competition. The allowed revenues of a company are adjusted annually by $1 + \text{CPI} - x + q$. CPI is the Consumer Price Index and q is the quality factor. The yardstick is determined by the average growth in total factor productivity (x). Each year, the gas network managers present a tariff proposal. This proposal is assessed by DTe.

Before the start of a regulatory period (three years), an estimate is made of the x factor, based on the general growth in productivity in the preceding period. The actual growth in productivity is measured at the end of a regulatory period. Differences between the realised and estimated growth in productivity are included in the following regulatory period.

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

An average household with an annual consumption of 1750m³ pays approximately EUR 100. The consumer's bill fluctuates between EUR 82 and EUR 109 for various gas network managers. More information on the regulated tariff structure of gas supply companies can be obtained from the website:

<http://www.dte.nl/nederlands/gas/transmission/tariefregulering/tariefbesluiten.asp>

3.1.4 Effective Unbundling

How many TSOs and DSOs are there? How is the 100,000 customer rule applied?

There is a separate national network manager for gas and electricity (TenneT for electricity and GTS for gas). In addition, there are four DSOs with more than 100,000 customers (Essent netbeheer, Continuon, Eneco netbeheer, Delta netbeheer) and seven DSOs with less than 100,000 customers (Westland energieinfrastructuur, NRE netbeheer, Cogas netbeheer, Rendo netbeheer, ONS netbeheer, Obragas & Haarlemmermeer netbeheer and finally Intergas netbeheer). All the DSOs supply gas and electricity, with the exception of Obragas & Haarlemmermeer and Intergas. In the Netherlands, small gas network managers (with fewer than 100,000 customers) are not treated any differently to the large gas network managers.

All DSOs are fully owned by Dutch municipalities and provinces, with the exception of Obragas & Haarlemmermeer. The TSOs are fully owned by the State of the Netherlands.

Unbundling and ownership of assets

At present, all the DSOs and TSOs are legally separated from activities unrelated to network management. The ownership of assets was also separated in the case of one gas network manager (NRE network) in 2006. This means that the gas network manager is no longer part of the same group as, for instance, the supplier. In the case of this gas network manager, the company is also the economic owner of the gas networks. In the case of all other DSOs, this does not apply: a group company is the economic owner of the gas networks.

All DSOs make use of shared services. This means that in the case of most DSOs, administrative services (including invoicing, customer management and call-centre activities) are carried out by shared service centres established as private limited liability companies. These are separate legal entities.

Almost all DSOs employ a few to at most 150 employees. With regard to the remaining activities, use is made of shared service centres. Energy companies (groups of gas network managers and other entities which carry out energy-related activities) are obliged to have an anti-discrimination programme. They are required to present a public report on this annually. The employees of the gas network managers need not work at a different location to their colleagues employed by the group companies. DSOs and TSOs are obliged to keep separate accounts. An annual report on these accounts is also drawn up according to DTe's accounting guidelines, in addition, of course, to the general accounting guidelines, and is published. The gas network manager's auditor issues an auditor's report declaring that the annual accounts have been drawn up in accordance with DTe's guidelines. The accounting standards provide methods for valuing revenues, costs, assets and liabilities. The costs that may be declared and the costs which may not appear in the gas network manager's annual accounts are also set out under the heading of "costs". If a gas network manager does not comply with the above, sanctions may ultimately be imposed in the form of, for instance, fines and penal sums. Further general legal provisions apply to this.

Is there a legal separation of DSOs and the TSO?

DSOs must be structured as separate legal entities, within or outside a vertically integrated company. Since July 2004, TSOs must be structured in such a way that their commercial and public activities are clearly distinguishable. They may still be part of a holding company in which commercial activities are carried out. With regard to DSOs, concrete plans exist to introduce far-reaching measures. The Lower House of the Dutch Parliament has approved a Bill (the so-called "Energy Companies Division Bill"), which regulate this the far-reaching and effective unbundling of energy companies. This Bill aims to realise a situation in which, on the one hand, the management of electricity grids and gas networks and, on the other hand, the production, supply and trade in electricity and gas no longer occur within one and the same concern or in which electricity grid and gas network managers, on the one hand, and production, trade and supply companies, on the other hand, hold shares in each other's companies. In practice, this amounts to the division of the existing integrated regional energy companies into two or more (groups of) companies, whereby in any event one of the new companies will be a company comprising the electricity grid or gas network manager and in which no production, supply or trading activities will be carried out. Since the national electricity grid and gas network managers are, in fact, no longer linked to producers, suppliers and traders, this Bill will not require them to restructure their businesses. The Bill contains no provisions with regard to the way in which the division must occur. At present, the Energy Companies Division Bill is being considered by the Upper House of the Dutch parliament.

More detailed explanation of the legal separation of DSOs and the TSO and a general assessment of the criteria for the independence of DSOs

In recent years, DTe has carried out intensive audits of DSOs. There are more detailed regulations with regard to independent network management. Rules exist which apply to the composition of the management board and the supervisory board: the majority of the members must be independent of entities with a commercial interest in energy. Rules exist in relation to which tasks can be outsourced to affiliated companies and which tasks the network manager must carry out itself. In the latter case, these are mainly strategic tasks in which the company's

employees have access to commercially sensitive information. The third group of rules deals with financial independence.

Ever since the start of liberalisation of the energy market, it has been obligatory to account separately for network management activities. Stricter rules were recently added to this. The group financing of commercial activities with the network or revenues from network management as collateral is prohibited ("ring fencing"), while at the same time criteria have been set for the financial resources available for network management. New CBLs are not permitted, unless they are for network management. With regard to the degree of division between companies: TSOs must be owned directly or indirectly by the State. This is also the case in relation to gas, particularly now that the gas TSO was recently separated entirely from its commercial tasks in the area of gas production and supply. DSOs must be owned by local authorities (although several exceptions do occur for historical reasons). The privatisation of DSOs will probably become possible in time once the Energy Companies Division Bill has been passed by Parliament. A complete division and consequently possible privatisation is not expected to take place before 2008. By that time it will also be obligatory for network managers to be the economic owner of the assets.

The extent to which TSOs and DSOs are separate from related supply and production companies

This is entirely the case in relation to TSOs. The gas TSO was recently separated from the production and distribution branches of Nederlandse Gasunie NV. The electricity TSO has no activities in the area of production or commercial supply.

This is less the case in relation to DSOs. Partly for this reason, the Minister of Economic Affairs introduced the Energy Companies Division Bill. According to the Minister of Economic Affairs, there are three reasons to divide energy companies. In addition to guaranteeing the independence of the networks, the Bill is premised on the liberalisation and the internationalisation of the energy market. In the recent past, it appears that network managers which were part of a group, which also included producers, suppliers or traders, were inclined to place these companies at an advantage. The present integration of network managers and producers, suppliers and traders within a single concern results in a situation where the network managers are not structurally independent. As a result of integration within a single concern, coordination always takes place between the subsidiaries. This is inherent in the choice to create a group in accordance with company law. It is precisely this coordination which jeopardises the network manager's independence relative to producers, suppliers and traders. For instance, the management of the concern has final responsibility for the operating result of the entire company and will do its utmost to maximise this result. The incentives to distort competition, resulting from integration within a single concern, easily result in cross subsidisation, the exchange of data, preferential treatment and financial advantages. These incentives undermine the transparency of the Dutch energy market and the level playing field between market parties. Removing these distorting incentives and the possibility of central management will therefore also strengthen security of supply.

After the division, the network managers will be able to concentrate fully on their core task and it will no longer be possible to use the financial results from network management for production, supply and trading activities. The above applies equally to the network managers of the national high-voltage grid and the national gas transmission network. These network managers are no longer linked in practice to producers, suppliers and traders. As a result, the above-mentioned incentives to distort competition and practices which undermine the network managers'

independence will no longer occur in their case. With regard to the network managers, this guarantee of their independence must be structural and may not be dependent on contingent developments, such as the nature of the shareholder. The criteria which this Bill stipulates with regard to network managers, as well as the opportunities which they have as a result of this independence, apply equally to be national network managers.

The explanation of the Energy Companies Division Act also refers to the advice on the independence of network management of 15 April 2004, in which DTe concludes that the regulations applicable at that moment are not adequate to guarantee the full independence of network managers. In this regard, DTe noted that it was very difficult to obtain an overview of compliance with the independence requirements. In this regard, a distinction must be made between regulation and enforcement. Although DTe has had a broader and more powerful range of enforcement instruments at its disposal since July 2004, enforcement – repressive action imposing sanctions – can only be used if a non-independent practice is observed. The latter is very difficult and requires considerable effort from the regulator. In its advice of 15 April 2004, DTe points to the concern structure as the reason that it is very difficult to observe non-independent practices. According to the Minister of Economic Affairs, DTe's conclusion in its advice of April 2004 that the regulations applicable at the time were inadequate, still applies today to the present state of regulations. In its advice, DTe refers to recommendations made in July 2003 to the Minister of Economic Affairs in the final report on independent network management. The most important recommendation in this final report, which follows audits carried out by DTe on all network managers, is that the fundamental question as to whether network managers may form part of a group must be considered.

Another reason for the division of companies relates to the liberalisation of the energy market, which commenced in 1998 and was completed with the liberalisation of the small consumer market on 1 July 2004. The liberalisation resulted in a situation where the structure and profile of the integrated energy companies changed. Where a supplier was guaranteed a number of consumers residing in the region allocated to it prior to liberalisation, after liberalisation the supplier had to enter the market, acquire customers and retain them. The risk profile of a supplier or other activities, such as energy production or trade, was the reason that many public shareholders of integrated energy companies soon wished to dispose of their shares, at least in these risk-bearing activities.

Finally, a trend is observable in Europe towards mergers and concentrations. Energy companies in the Netherlands will in time form part of international companies which compete with each other on the various markets within Europe. The future development of the energy market is guided by the principle that it is necessary to guarantee the independence of network management structurally. After all, this impacts most directly on the public interests affected by energy supply in the Netherlands. This process of internationalisation and concentration in Europe will benefit the Dutch market if the networks play a role which is entirely independent from the supply, trade and production of energy. Through independent networks, various (international) energy companies can compete for market share of the Dutch market. The continued existence of integrated energy companies is not consistent with guaranteeing the structural independence of the Dutch networks.

In summary, this Bill provides for entirely independent network management. As a result, the operation of market forces will improve and the consumer will pay network tariffs and fair market prices based on actual costs. In addition, this Bill will make it possible for public shareholders to dispose of their shares in the risk-bearing activities of energy companies, taking into account international developments on the electricity and gas markets. To realise these separate aims, at

a theoretical level various instruments are conceivable. The proposed division of energy companies, according to the Minister of Economic Affairs, however, is the only way of realising all these aims simultaneously.

The extent to which network managers present themselves to the public as separate entities (name and trademark)

Although by law an adequate distinction must be made in the trade name used, most DSOs operate under names which closely resemble those of the affiliated supply companies, often with the addition of "Netbeheer B.V." The Government has approved these names.

Separate accounting

By law, network managers are required to keep separate accounts. Certain rules have been drawn up for this. These include the obligation to publish annual accounts, at least by having them available for public inspection at its office address.

Requirements with regard to separate accounting: cost allocation *et cetera*

Energy legislation contains specific rules with regard to the type of activities which must be described in the separate accounts. The law may be enforced if the accounting is not adequate, for instance by imposing a fine. DTe has also drawn up accounting rules ("Regulatory Accounting Rules"). The Energy Companies Division Act also contains further requirements which are also intended to guarantee the financial independence of network managers after the company has been divided ("ring fencing").

Obligatory audit?

The separate accounts require an auditor's report with regard to whether affiliated commercial entities have been placed at an advantage. Such cross-subsidisation is explicitly prohibited.

The role of the compliance officer

A compliance officer is not obligatory. Only since July 2004 has it been obligatory to have a so-called "code of conduct" for personnel. The rules must prevent discrimination when carrying out network tasks. Most network managers are involved in the implementation of such codes of conduct, which often include a form of internal audit of compliance with these. DTe will carry out checks on these various aspects during 2005.

The extent to which and the way in which costs are allocated, as well as the regulator's response

The use of shared service centres is widespread and cost allocation within concerns is often not transparent. A considerable number of network managers depend on such services and other types of facilities provided by the concern. Reference is made to so-called "lean" network managers: on paper these are independent legal entities, but in practice they are still very dependent on and interwoven with the other divisions of the concern.

The regulator has serious doubts about whether the method of cost allocation is adequate. An important reason for this is the fact that use is often made of shared service centres. These are not transparent for third parties, such as the regulator. For this reason, for the purpose of tariff regulation, DTe has developed standards for cost allocation within the vertically integrated energy company. In addition, accounting rules have been drawn up. The Energy Companies Division Bill, partly on DTe's advice, contains further rules on the types of activities which network managers must carry out themselves and the activities which they may outsource. This brings to an end the phenomenon of the "lean network manager". This Bill will definitively require network managers to have economic ownership of the assets which they manage.

The sanctions instruments of the Dutch regulator

If a network manager does not adhere to the above-mentioned requirements, DTe may impose a sanction, such as a fine or penal sum. In addition, it is also possible to issue binding instructions: an order without a penal sum. Finally, the Minister of Economic Affairs, in the worst case, can revoke designation of the company as a network manager and designate a different grid manager.

Economic unbundling

To prevent the distortion of competition between suppliers with and without their own distribution network, the Energy Companies Division Bill was passed by the Lower House of the Dutch Parliament and is currently being considered by the Upper House. Once the Bill is approved by the Upper House, it will pass into law as soon as possible.

The majority of network managers are not separated structurally from the rest of the energy companies to which they belong. During the parliamentary proceedings in relation to the Energy Companies Division Bill, several smaller network managers decided to divide their companies voluntarily, in anticipation of the requirements contained in the Bill.

Number of network managers

At present, there are 16 electricity grid managers and 22 gas network managers. These network managers are not all independent of each other. Some operate within the same group.

Ownership

Most DSOs are owned by local authorities, while the TSOs are fully owned by the State.

3.2 Competition Issues [Article 25(1)(h)]

3.2.1 Description of the wholesale market

Market structure

The Dutch gas market is described on the basis of the tables below in relation to domestic consumption, production, import and an overview of the shippers active on the Dutch national gas transmission network.

Consumption, domestic production and import (GWh) in 2005. Source: Gas Monitor, data DTe

	Consumption	Production	Import
Hi-calorific gas	137,994	394,194	178,440
Low-calorific gas	0	0	-
Groningen plus gas	291,285	0	-
Groningen gas	10	350,059	284

Shippers on the Dutch gas market (July 2006):⁴

Atel AG	Gasunie Trade and Supply
BHP Billiton Marketing	Gaz de France
BP Energy Marketing B.V.	Gazexport Ltd.
ConocoPhillips (U.K.)	Glencore Energy UK Ltd.
Delta Energy B.V.	Hess Energy Power & Gas Company Ltd
D-Gas B.V.	Merrill Lynch Commodities (Europe) Ltd.
D-Gas Storage B.V	N.V. Nuon Energy Trade & Wholesale
Distrigas N.V.	Nederlandse Aardolie Maatschappij B.V.
Dong	Norsk Hydro Energie Marketing
E.ON Benelux Generation N.V.	Norsk Hydro Energy B.V.
E.On Ruhrgas AG	RheinEnergie AG
EDF Trading Ltd. Holborn	RWE Energy AG
Electrabel S.A.	RWE Energy Nederland N.V.
ENECO Energy Trade B.V.	Sempra Energy Europe
Energiehandelsgesellschaft West MbH	Stadtwerke Hannover AG
ENI UK Ltd.	Statkraft Markets GmbH
Enoi Spa	Statoil Gas Trading Limited

⁴ Source: www.gastransportservices.nl

Essent Energy Trading B.V.	Total Gas & Power Ltd
EuroHub B.V.	TRIANEL European Energy Trading GmbH
Eurohub GmbH	Vitol S.A.
EWE AG	Wingas GmbH
Gaselys	Zarubezhgaz Management und Beteiligungsgesellschaft mbH

Gas (bcm) Imported in 2004 originated from Norway (6.16), Russia (2.67), Germany (4.5), UK (1.8), Denmark (0.75).⁵ The largest gas producers in the Netherlands in 2005 were: NAM, Total, GdF, Wintershall and BP.⁶

The regional gas network managers and the national network manager (Gasunie Transmission Services) are responsible for the transmission of gas. An rTPA regime applies to both the national and regional transmission of gas and a licensing system is applied.

An nTPA regime applies to gas storage. Cross-border gas transmission networks and LNG installations do not fall within an rTPA regime. The Gas Act offers the possibility of applying for exemption for the third-party access system with regard to gas storage, cross-border transmission networks and LNG installations.

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 has two installations for underground gas storage (in the Norg and Grijpskerk gas fields). BP has a gas storage facility in Alkmaar. 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 salt caverns near Zuidwending for gas storage (scheduled to come on stream in approximately 2008-2010).

The Balgzand-Bacton Pipeline is an interconnector between the Netherlands and the United Kingdom. The Balgzand-Bacton Pipeline is a joint venture of Gasunie, Eon Ruhrgas and Fluxys. However, the capacity has been sold to Gasunie Trade & Supply, Eon Ruhrgas Trade and Wingas.

At present, there is one LNG regasification terminal in the Netherlands, owned by N.V. Nederlandse Gasunie. There is also interest in developing LNG regasification capacity in the near future. This initiative has been taken by the following parties:

- Gate Terminal B.V. (joint venture of N.V. Nederlandse Gasunie and Koninklijke Vopak)
- Essent and ConocoPhillips
- 4Gas (Petroplus)

⁵ Source: Cedigaz.

⁶ Source: Olie & Gas Jaarboek.

Concentration

The number of players on the gas wholesale market increased considerably in the period from 2001 up to and including September 2004, namely from 8 to 69 players. Although there was no insight at the time into the market shares of these parties, it was possible to calculate that the market share of the largest supplier was 80%.

Level of liquidity

In 2005, the share of gas consumption in the Netherlands that was traded on the Title Transfer Facility (TTF), in particular TTF-Wobbe H, increased by more than 50% compared to 2004. The total volume traded even almost doubled in this period, which indicates an increase in the liquidity of the gas wholesale market.

Outlook

Despite the increase in the number of players on the gas wholesale market, there were also various barriers to entry in 2005. These barriers were not so much a consequence of legal or actual access procedures, but of problems which market players experienced in obtaining access to the necessary resources for gas supply. For instance, there was too little flexibility available at reasonable tariffs. In addition, access by market parties to the domestic and commercial markets was limited by the fact that there was too little (contractual) capacity available for quality conversion. Finally, there was little (contractual) import capacity available. As a result of this, there were only limited opportunities for newcomers to enter the gas wholesale market.

In 2005, NMa took a number of measures to reduce the barriers to entry which had been observed. On 5 December 2005, for instance, it was decided that Gas Transmission Services B.V. (GTS), as the manager of the national gas network, should also offer flexibility services as of 1 January 2006. In addition, various commercial players started research into the possibility of developing new sources of gas supply and flexibility. For instance, the possibility of developing liquid gas (LNG) supplied by oceangoing ships was examined and initiatives to develop new underground gas storage facilities, so that flexibility services could be offered by a number of parties, were considered.

Degree of integration with markets in neighbouring countries

The Dutch wholesale market is linked to foreign markets, but full market integration is far from complete. For the time being, trade on the Dutch wholesale market will be limited. While the volume of trade on the TTF may increase sharply, the volume is still low compared to NBP. The outlook for the (development of the) liquidity of the market is positive. These developments are illustrated by a number of figures in the form of price trends.

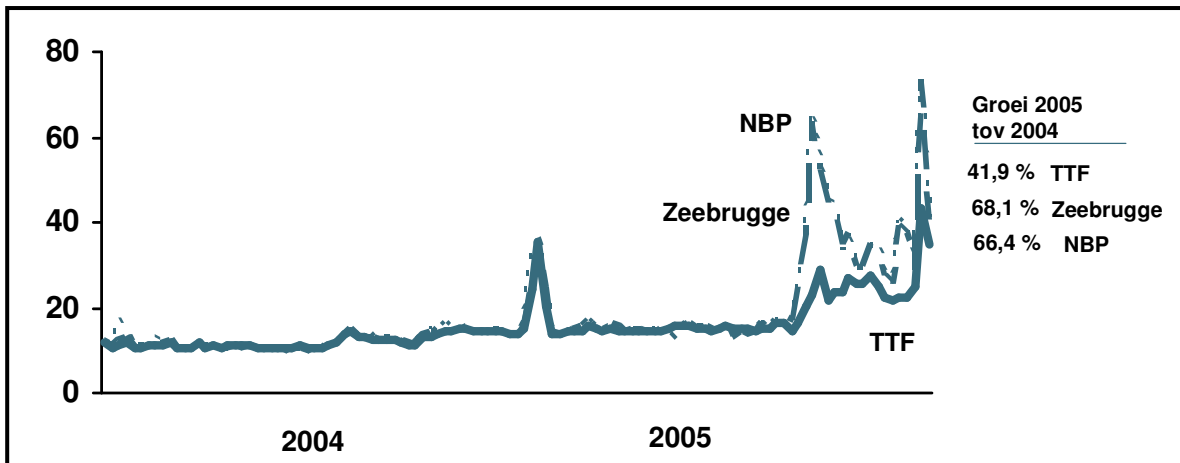


Figure. Day-Ahead prices (EUR/MWh) on NBP, Zeebrugge Gas Exchange and TTF.
Source: Platts, DTe's Gas Monitor.

Growth 2005 compared to 2004

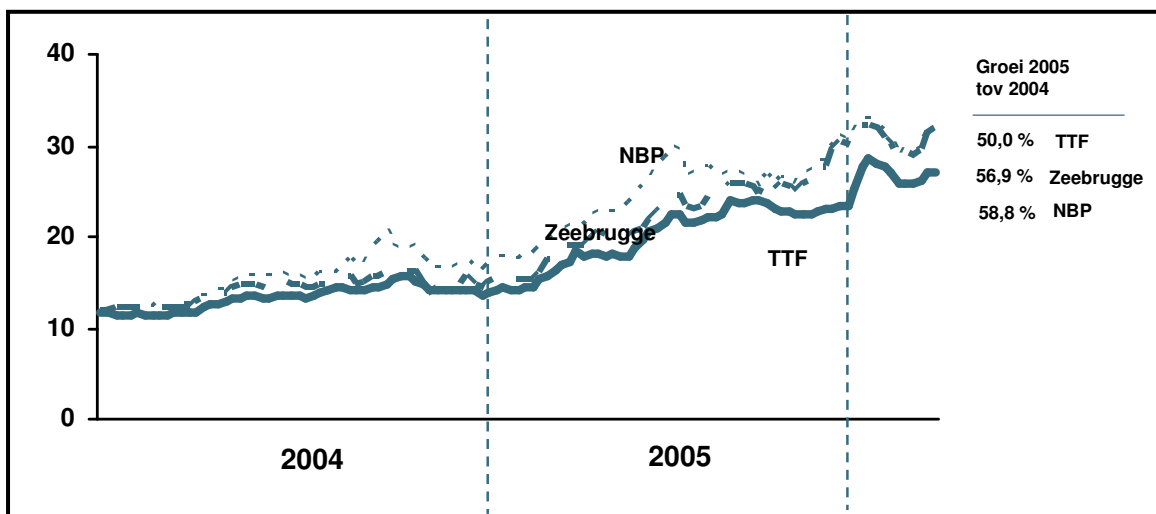


Figure. Price trend of year-ahead contracts on NBP, Zeebrugge Gas Exchange and TTF.
Source: Platts, DTe's Gas Monitor.

TTF is considered important on the Northwest European market. This is apparent from the assessment of the relative liquidity of several international marketplaces by market players as reported in DTe's Gas Monitor. In this regard, they were asked to compare NBP, Zeebrugge Gas Exchange, TTF and VEP-BEB in Germany. The market parties' answers resulted in the following ranking:

1. **NBP** is the most liquid market, followed by
2. **TTF** and **Zeebrugge** in a shared second place
3. Followed by **VEP-BEB**.

They were also asked to distinguish between various types of products. The liquidity of the separate products, however, did not result in a different ranking of the various marketplaces.

However, the Zeebrugge Gas Exchange is regarded as the more illiquid marketplace for shorter-term products (month-ahead and less), while TTF was regarded as more illiquid for the longer-term products.

3.2.2 Description of the gas retail market

DTe does not have figures which can be broken down into the segments requested, neither into medium-sized industrial and commercial consumers with consumption between 50 MWh and 2000 MWh, nor in two large industrial consumers with consumption exceeding 2000 MWh.

Market structure

There are three suppliers on the Dutch gas market with a market share which exceeds 5% of the small consumer segment. The structure of the Dutch gas retail market is characterised by these three large suppliers and a larger number of (very) small suppliers. De three large suppliers together have a market share of approximately 79% in the small-consumer segment. The other 16 independent players each have a market share of less than 5%. On 1 June 2006, a total of 26 parties had a licence to supply gas.

C3 index	G
1 July 2004	86%
1 January 2005	84%
1 July 2005	83%
1 January 2006	79%
1 July 2006	79%

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 acquisitions 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)

By means of these acquisitions, the foreign companies have developed a platform from which they wish to increase their share of the Dutch market. Up until now, the Dutch company names/brands have been retained. All the foreign entrants have ambitious growth targets on the Dutch market.

In addition to entry by foreign companies, there are also domestic companies which enter and exit the market. In 2006, a licence was issued to one new supplier on the gas market, two applications for licences are currently being processed and at least two applications are being prepared.

Vertical integration of distribution/production and distribution/network

There is no vertical integration of distribution on the small-consumer market and with regard to gas production, the gas producer in the Netherlands does not sell directly to the small consumer market. There are 20 suppliers. Of these 20 suppliers, 11 players operate independently with a direct or indirect link to a gas network manager. There are nine gas suppliers without a link to a Dutch gas network manager. These nine suppliers are all independent of each other. The vertical integration of the grid companies and supply companies amounts to 94%, expressed as market shares of the small-consumer market for gas.

Switches

Between 1 July 2004 (the moment of full liberalisation) and 1 June 2006, approximately 720,000 gas customers switched suppliers. This is 10.9% of the total number of domestic gas customers. The figure below provides an overview.

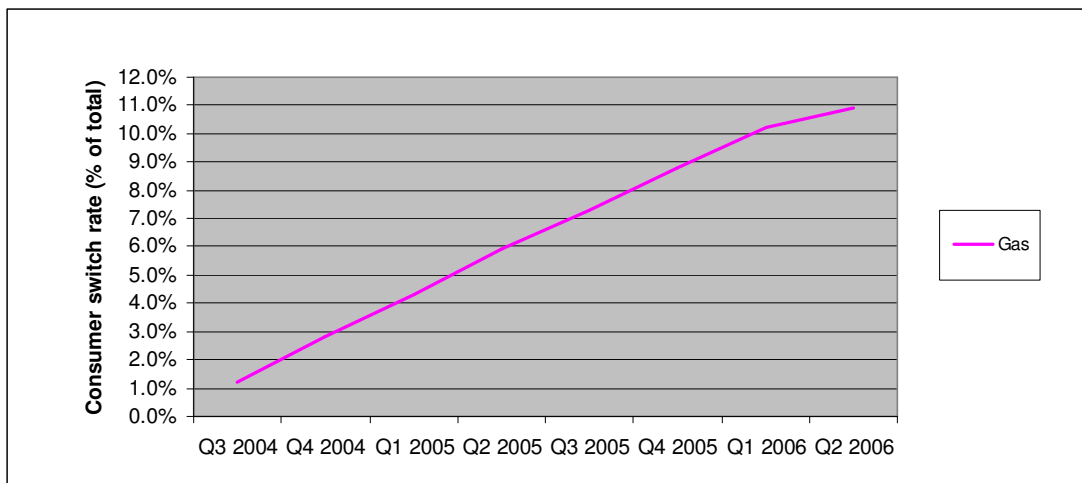


Figure 4.2.2-b: Development of the switch rate for gas since market liberalisation

Switching procedures

The procedure is identical to the procedure for electricity: If gas consumers wish to switch suppliers, the gas consumers must inform the new supplier in writing or verbally (for instance, by telephone) of their intention to switch and must authorise this new supplier to request the necessary information and to take the necessary action (for instance, requesting information from the connection register of the gas network manager and making arrangements in relation to programme management). In addition, the consumers must provide the meter reading. If they fail to do the latter, they accept that the final settlement by the former supplier will be based on an estimate of consumption. After completing the above, the consumer has done all that is necessary to switch. In this regard, DTe advises consumers to ascertain whether the supplier respects the duration of the contract with the former supplier. The customer is then certain that he will not unexpectedly be charged a cancellation fee. After this, the consumer need not take any further action and waits 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 gas network manager. The meter reading accompanying the switch has to be sent to the gas network manager 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 gas network manager 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 manager 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 gas network manager also enters the change into the connection register. The gas network manager passes on the meter reading(s) as soon as possible, but at the latest on the thirtieth working day after the date of the switch, to both the former and the new supplier. The gas network manager also notifies the former supplier of the amount consumed, so that the former supplier can draw up the final invoice.

Problems with switching

For various reasons, applications for switches may be refused. Between 1 June 2004 and 1 June 2006, approximately 93,500 applications for switches were rejected (of which approximately 44,000 in the past year). The main reasons for this are: (1) the application had already been submitted, (2) the application was received too early or too late, (3) it did not involve a real switch, or (4) the connection was blocked for switching and changes of address, or had been disconnected due to consumers moving into the premises.

Prices, tariffs and tax rate per component of the invoice

Transmission costs without levies

The transmission costs consist of:

Consumption-related costs (also referred to as volume costs)

Standing transmission charges

Standing connection charges

Transmission capacity

The transmission tariffs are regulated. The tariffs may differ from one gas network manager to the next. Table 4.2.2-c provides an overview of the tariffs.

Company	Standing charges per annum (EUR)	Tariffs per unit of the volume parameter per annum (capacity-related tariff category) (EUR)	Consumption-related tariff per Nm ³ (normal m ³) (EUR)
DELTA Netwerkbedrijf B.V.	40.56	5.40	0.02005
Gezamenlijke netbeheerders ENECO	30.00	12.1216	0.0125
Essent Netwerk B.V.	18.00	16.44	0.0112883
Intergas Netbeheer B.V.	30.00	13.00	0.01137
Netbeheerder Centraal Overijssel B.V.	28.56	13.94	0.010725
NRE Netwerk B.V.	18.00	15.47	0.01075

N.V. Continuon Netbeheer	27.60	13.20	0.012296
Obragas Net N.V.	27.60	14.77	0.01098
ONS Netbeheer B.V.	18.12	13.08	0.015
RENDO Netbeheer B.V.	16.57	18.00	0.01168
B.V. Netbeheer Haarlemmermeer	27.60	12.65	0.011201
Westland Energie Infrastructuur B.V.	30.00	8.628	0.009073

Table 4.2.2-c: Regulated transmission costs for gas

Levies included in the transmission costs

In the case of gas, no levies are included in the transmission costs.

Metering costs

The metering tariffs⁷ (meter rental) are not regulated. At present, DTe does not have all the relevant data.

Energy costs

The supply tariffs are not regulated. On 1 January 2006, a household with an average consumption (1800 m³ per annum) paid a net amount of EUR 762 on an annual basis⁸ (approximately 45% of the consumer's total gas bill). This results in an average supply tariff (including fixed costs for gas supply) of EUR 0.42 per m³. DTe monitors the fairness of the tariffs.

Taxes

Various taxes are levied on the supply of energy. On 1 January 2006, the energy tax amounted to EUR 0.1507 per m³ of gas supplied. Value added tax (VAT) of 19% is charged on the entire net amount, including energy tax. In addition, a tax rebate of EUR 197, excluding VAT, is applied (to the entire energy bill).

⁷ 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.

⁸ Based on figures from Statistics Netherlands.

4 Security of supply

We refer you to the Monitoring Report on Security of Supply in Relation to Electricity and Gas [*Monitoringsrapportage Leveringszekerheid Elektriciteit en Gas*] by the Ministry of Economic Affairs, which was recently sent to DG TREN of the European Commission.

4.1 Electricity [Section 4]

Table 5.1 of the Excel spreadsheet included as an addendum shows the present and expected development of peak demand and the available production capacity in the Netherlands. This also provides an overview of new investments in production capacity for each generation source for the year 2004 and future years. The table below, table 5.1, gives a total overview for the year 2004 of present production installations in the Netherlands, subdivided into generation sources.

Table 5.1

Main fuel(s)	Capacity (GW)
Nuclear fuel	0.4
Coal* ¹⁾	4.2
Furnace gas /Natural gas	0.9
Natural gas - Larger units* ²⁾	11.4
Natural gas/Oil -Smaller total energy installations	2.6
Waste	0.4
Hydroelectricity	0.0
Wind energy	1.1
Total	21.1
Total (excluding wind energy)	20.0

*¹⁾ Most coal-fired units also burn biomass up to a maximum of approximately 20%. Most coal-fired units also have the possibility of switching to natural gas or oil.

*²⁾ Some gas-fired power stations have the possibility of switching to oil. Some gas-fired units burn bio-oil and biogas.

Framework for the construction of infrastructure

DTe does not have a direct role in investments and the granting of licences for new production 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 2006, it was again decided not to invoke this safety net for the time being.

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

In so far as this relates to DSOs, DTe 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 managers are required to maintain the networks and finance normal expansion of the transmission networks from these tariff revenues. DTe does not play a role in this. The network managers 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 DTe and must be assessed by DTe.

On the other hand, the TSO must finance replacement investments from its turnover generated from tariffs (turnover regulation). A tariff increase or use of the proceeds of the auction may be requested for all other investments.

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 Code and the Grid Code is approved by DTe. 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 DTe. The above-mentioned planning process also applies to the planning of the DSOs' grids.

Infrastructure projects

The most important infrastructure projects are the following, of which two 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. The activities in this regard continue as usual.

The construction of a submarine cable connection of 700 MW between the Netherlands and Norway by the TSOs of these two countries is progressing as planned. This connection is expected to come into operation in 2007.

On 13 June 2006, BritNed submitted an application for exemption to the Minister of Economic Affairs for a submarine cable connection between the Netherlands and the United Kingdom. This

is a request for exemption from allocation of the revenues of the cable for 25 years. The Board of Directors of NMa has the statutory duty to advise the Minister with regard to his assessment of the application. NLink International B.V. is a subsidiary of TenneT, which has set up a joint venture, BritNed Development Ltd., together with the British National Grid. BritNed expects the connection to come into operation in mid-2010. The capacity of the connection has not yet been determined, but will possibly be between 700 MW and 1320 MW.

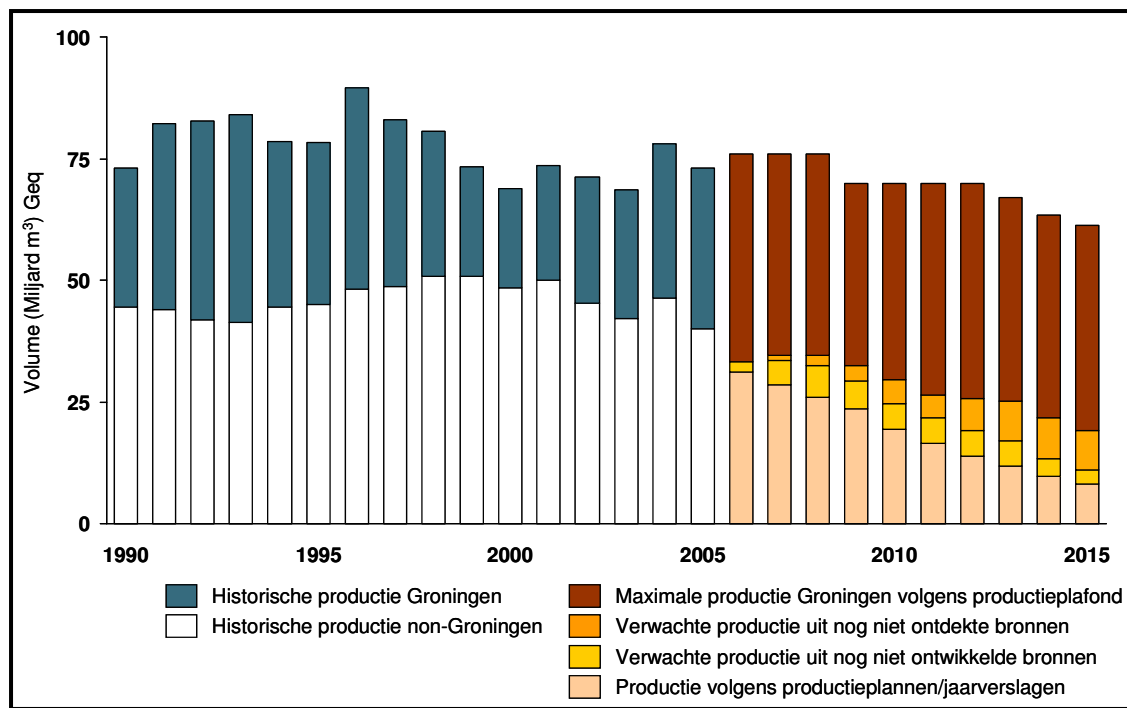
For more information on infrastructure projects, we refer you to TenneT's Quality and Capacity Plan 2006-2012 [*Kwaliteits- en Capaciteitsplan 2006-2012*].

4.2 Gas [Article 5]

An overview is provided below of the present situation with regard to security of supply in relation to provision of gas in the Netherlands with regard to the aspects referred to below.

a) The balance of supply and demand on the national market

For a more detailed explanation, we refer you to the Quality and Capacity Document published by GTS in December 2005 and available from the website <http://www.gastransmissionservices.nl/>. The graph below shows that the Netherlands has more than sufficient gas reserves to meet domestic demand. From 2009 onwards, there is a clear decline in domestic production. This is a difference compared to the previous Monitoring Report for 2005, in which production from the Groningen field was limited by the 'national' cap on production. The present report includes a cap on production from the Groningen field. This cap has been set at an annual volume of 425bn m³ for the period from 2006 to 2015. This means an average annual volume of 42.5bn m³.



Volume (billion m ³) Geq		
	Historic production Groningen	Maximum production Groningen according to production cap
	Historic production non-Groningen	Expected production from sources not yet discovered
		Expected production from sources not yet developed
		Production according to production plans/annual reports

Figure. Expected domestic production up to 2015. Source: *Olie en Gas Jaarboek*

b) The level of future demand

This has already been answered in part (a).

c) Additional production and network capacity planned or under construction

In answer to the questions with regard to additional production capacity planned, we refer you to part (a), in which 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 (in this regard, see also GTS's report "Overview of Estimates for Gas from Small Fields" [*Overzicht ramingen gas uit kleine velden*]), published at <http://www.gastransmissionsservices.nl/>), additional quantities of gas will have to be imported to maintain security of supply.

Imported gas can be supplied by pipeline, or by ship in the form of liquid natural gas (LNG). At several entry points in the Northeast of the Netherlands, shippers have already shown a concrete need to contract additional entry capacity. The transmission network will have to be expanded for this. Investment proposals in this regard have been submitted to DTe by GTS.

With regard to the network capacity planned or under construction, you are also referred to the proposal to invest in the Balgzand-Bacton Pipeline, of which the Commission is already aware, of course with corresponding investments in GTS's network (planned for 2007). The total annual volume is expected to amount to approximately 12 billion m³, but depends on utilisation by shippers. Market parties have already revealed plans to import LNG.

In addition, 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 necessary to compensate for this.

Finally, there will be a need for additional gas storage for the decline in gas from Groningen and for the marketing of new European import flows.

d) The measures taken for peak load or the default of one or more suppliers

Measures in relation to peak load

In accordance with Directive 2004/67/EC in relation to measures to secure the supply of natural gas, Member States undertake 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 Act [*Besluit Leveringszekerheid Gaswef*] (*Netherlands Bulletin of Acts and Decrees*, 2004, No. 170) was drawn up for this. To avoid a situation where small consumers are left in the cold during an extremely cold day due to a shortage of production and transmission capacity, this decision stipulates that the manager of the national gas transmission network 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 manager of the national gas transmission network. Together with the freely contactable basic supply for -9°C and warmer, the licence holder can therefore offer small consumers full supply up to and including -17°C . The manager of the national gas transmission network 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 network manager's position as the sole supplier of gas to meet peak demand is not abused. At the same time, the manager of the national gas transmission network is compelled to obtain the necessary supplies as efficiently as possible.

5 Public service issues

Liberalisation of the small consumer market

Since 1 July 2004, the energy market has been fully liberalised. In addition to the phased liberalisation of large consumers at an earlier stage, as of 1 July 2004 small consumers have also been able to choose their own supplier of gas and or electricity. The supply tariffs are no longer regulated as of 1 July 2004. 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 regulations. The role of DTe in this regard is strictly to monitor compliance with the rules governing the protection of small consumers and to ensure that the operation of market forces reaches an adequate level, certainly in the critical initial phase of liberalisation of the small consumer market. The protection of small consumers is therefore one of DTe's core tasks. This protection has been implemented in various ways. An important theme in this regard is promoting a transparent market. DTe therefore informs small consumers of the current and actual development of the small consumer market by publishing indicators with regard to price trends and the exercise of freedom of choice. For instance, websites which compare prices are monitored with regard to their independence, correctness and reliability. In addition, small consumers are given insight into the number of complaints, ordered according to topic, which DTe receives about the various energy companies. In addition, the administrative processes (including the invoicing problems) of various energy companies have also been the subject of investigation. On a quarterly basis, DTe publishes an overview of the administrative performance of suppliers on its website.

Supply licence

A supplier which supplies small consumers has to have a supply licence. When a supply licence is granted, DTe assesses whether the supplier has the necessary organisational, financial and technical qualities to carry out its task properly and whether it has shown to DTe's satisfaction 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, DTe assesses whether a supplier uses clear offers and agreements which state the level of the tariffs and their composition. In addition, DTe assesses whether the supplier has a transparent and fair payment scheme and a transparent and fair scheme for cancelling and dissolving agreements. A supplier will also have 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 attached to the supply licence, 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, in cooperation with the sector, DTe 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, DTe has made use of this possibility. DTe has also drawn up policy rules which guaranteed the timely dispatching of (final) settlements. In addition, DTe and the sector have drawn up rules on a voluntary basis which have resulted in clear energy bills.

Safety-net regulation

Although the supply tariffs for small consumers are no longer regulated by DTe, the various supply tariffs charged to small consumers are checked by DTe with regard to their fairness. If DTe is of the opinion that the supply tariffs are unfair, a maximum tariff may be set. This protects small consumers from excessive tariffs. DTe has approached several suppliers with regard to 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 is required to adjust the tariffs. To date, however, DTe has not had to determine a maximum tariff for a supplier.

Power labelling

Obligatory power labelling also relates to creating greater transparency. As of 2005, energy suppliers are obliged to provide consumers annually 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 deciding to switch from one energy supplier to another.

Customer acquisition and retention - Code of Conduct

DTe still receives questions and complaints about the way customers are 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. Partly due to the problem of customer acquisition, in consultation with the energy sector, DTe has drawn up a code of conduct. This code of conduct has been signed by almost all energy suppliers 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 mark' of proper acquisition practices. If DTe receives reports that a company has infringed the code of conduct, DTe will intensify its supervision and conduct an investigation.

Disconnection policy

Following an increasing stream of questions and complaints from small consumers about disconnections, DTe has analysed the disconnection and debt collection policies of network managers and suppliers. The network managers and suppliers will further standardise and harmonise their disconnection and debt collection policies on the basis of this analysis taking into account a number of conditions set by DTe. Amongst others, these include an obligation on the part of energy companies to provide DTe with data which gives an insight into the number of disconnections during the calendar year. At present, DTe does not yet have a list of all disconnections in 2005/2006.