

ANNUAL REPORT **2005**



COMMISSION FOR ELECTRICITY
AND GAS REGULATION

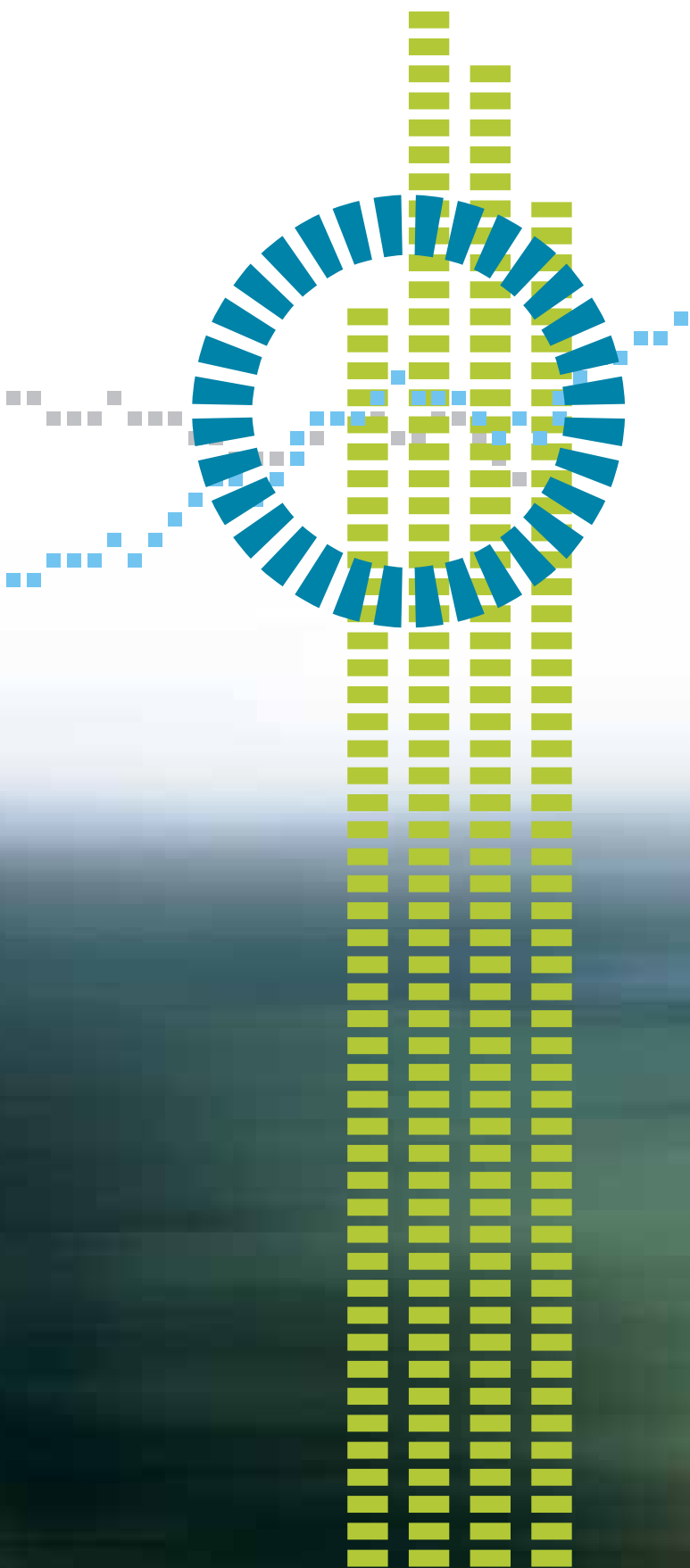


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For the list of documents issued by CREG in 2005, please refer to the French and Dutch annual reports.

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COMMISSION FOR ELECTRICITY
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Foreword by the chairman

As in previous years, in 2005 CREG made every effort to contribute its maximum to the liberalisation of the electricity and natural gas market. As a result, network tariffs continued to fall, the priority rights of the so-called historic electricity contracts were abolished, capacity on the interconnection between the Belgian and French transmission networks was substantially increased, a mechanism for the allocation of this capacity in line with the market was introduced on a temporary basis while awaiting a more thorough analysis with a view to making further improvements, the first FLUXYS indicative transmission programme for 2006 was introduced, etc.

Nevertheless, the shifts in the market shares in terms of electricity generation and electricity and gas supplies for 2005 can hardly be considered spectacular. The report drawn up by London Economics at the initiative CREG Council-General put its finger on the problem as early as 2004 – concentration, vertical integration and the resultant lack of transparency and liquidity in the electricity market, which remains a national market, are serious obstacles to the free market process. In the meantime, the European Commission, with its sector inquiry started in 2005, and the International Energy Agency in its survey of Belgium for 2005, have confirmed these observations for electricity and extended them to natural gas.

Given its current areas of competence, CREG is not in a position to offer any fundamental solution to these problems. The International Energy Agency is calling, amongst other things, for the necessary areas of competence to be granted to CREG so as to be able to prevent anti-competitive behaviour and intervene on the market. Were it to be offered the opportunity, CREG would willingly take up this challenge. However, this will not be enough. The ultimate aim of the liberalisation of the electricity and gas market is to create one large, European internal market. Moreover, the sector survey conducted by the European Commission shows that the same problems may be found in every member state in the European Union. We are therefore forced to conclude that these problems require a European approach. It is time that the European Union pursued a policy designed to provide a lasting solution to structural problems such as that of concentration and vertical integration.



Christine Vanderveeren
Chairman of the Management Board



1 Evolution of electricity market

1. European electricity market

1.1. Report from European Commission

In accordance with the Electricity¹ and Gas Directive², on 15 November 2005 the European Commission, in consultation amongst others with the European Regulators Group for Electricity and Gas (EREG³), published a report on the progress made in creating the internal gas and electricity market⁴.

The report emphasises a series of shortcomings that hamper effective competition. It states that cross-border competition is still insufficiently developed to be able to offer electricity and natural gas customers a real alternative to the established suppliers. This is reflected in the lack of price convergence within the European Union and the limited cross-border trade. As regards the electricity market, the problem lies in an often insufficient interconnection between the member states, whereas the natural gas market continues to suffer from a lack of liquidity and transport capacity. More generally, the existence of barriers to enter the market and inadequate use of existing infrastructures are cited as factors that stand in the way of cross-border competition.

As it is still too soon to be able to judge the effects of the introduction of the Electricity and Gas Directive, the European Commission states that, before final conclusions can be drawn regarding the need for additional legislative measures at European level, the member states must first implement the directives in question into their national legislation as a matter of urgency and monitor the actual application of the legislative and regulatory measures. By the end of 2006, the European Commission will assess the effectiveness of the measures taken in terms of opening up the market in each member state.

The preliminary findings of the inquiry conducted by the European Commission on competition in the energy sector confirm and complement the results of its report on the functioning of the European energy market. The responses that emerge from this sector inquiry reveal at this stage five areas of market malfunctioning:

- the electricity and gas markets in many member states continue to be concentrated, creating scope for the historic suppliers to influence prices;
- many wholesale markets suffer from a lack of liquidity because of long term contracts (natural gas) or because of substantial vertical integration between generation and retail, which limits the development of wholesale markets (electricity); moreover, there is no adequate level of unbundling of supply and network activities;
- the barriers to cross-border trade in electricity and natural gas prevent the development of an integrated internal energy market;
- the lack of transparency in the markets works in favour of the historic suppliers and undermines the position of new entrants; moreover, this lack of transparency creates mistrust;
- both industry and consumers have little confidence in the price formation mechanisms in the wholesale markets for natural gas and electricity; in addition, prices have increased significantly.

¹Directive 2003/54/EC of the European Parliament and the Council of 26 June 2003 concerning common rules for the internal market in electricity and repealing Directive 96/92/EC.

²Directive 2003/55/EC of the European Parliament and the Council of 26 June 2003 concerning common rules for the internal market in gas and repealing Directive 98/30/EC.

³Part 3, point 4.3., of this report.

⁴Communication COM(2005) 568 final from the Commission to the Council and the European Parliament. Report on progress in creating the internal gas and electricity market, 15 November 2005.

1.2. European Electricity Regulatory Forum

The twelfth meeting of the European Electricity Regulatory Forum, which constitutes a platform for consultation on the creation of an internal electricity market, was held in Florence on 1 and 2 September 2005. In addition to delegates from the European Commission, the European regulators and the member states, this meeting was attended by representatives from the candidate member states and Switzerland.

The European Commissioner for Energy, Andris PIEBALGS, gave an evaluation of the European electricity market and expressed the advice that, although considerable progress had been made, there are still many matters to be

settled. He also referred to the sector inquiry on competition launched by the European Commission in June 2005⁵.

For its part, the European Commission presented the results of the mini-forums and announced that these would be followed in 2006 by another series of mini-forums. The European Commission also explained the directive on security of electricity supply.

Once the European Regulators Group for Electricity and Gas (EREG) had given the European Commission its advice in 2005 on the directives concerning congestion management on the one hand and transmission tariffs on the other, the latter announced its intention of adopting these two directives.

2. Belgian electricity market

2.1. Opening of Belgian electricity market

In 2005, the level of eligibility in the Belgian electricity market remained at the level attained at the end of 2004⁶. As a result, 91%⁷ of total electricity demand in Belgium could be provided by the supplier of the customer's choice, which corresponds to a volume of approximately 79 TWh.

Only household low-voltage customers in the Walloon and Brussels-Capital Regions do not yet benefit from the status of an eligible customer.

In the Walloon Region, household customers will be able to choose their supplier freely as of 1 January 2007⁸. However, final customers who obtain their energy supplies exclusively from green power suppliers are already eligible⁹. In the Brussels-Capital Region, the Government still has to set the date on which household customers will become eligible. This date shall not be earlier than 1 January 2007 or later than 1 July 2007¹⁰.

At a European level, as at 5 January 2005, Belgium ranked second in terms of electricity markets in the European zone that are legally open to competition¹¹.

2.2. Electrical energy demand

Electrical energy demand, that is net consumption plus grid losses, amounted to 87,075 GWh in 2005, down 0.6% on 2004. Despite this slight fall, the demand peak rose slightly in 2005. In sectorial terms, industry accounts for almost half the total electricity consumption in Belgium. Household consumption and consumption by trade and public services represent more than one fifth of the total consumption of electrical energy¹².

Table 1: Evolution of called-up power and called-up peak capacity in the period 2001-2005

	2001	2002	2003	2004	2005
Energy demand (GWh)	83,571	84,206	85,771	87,618	87,075
Peak demand (MW)	12,953	13,692	13,573	13,708	13,731

Source: Federation of Electricity Generators and Distributors in Belgium - 2004 Statistics, ELIA, provisional data - January 2006.

2.3. Supply of electricity

2.3.1. Electricity supply sector

As regards the breakdown of supply activities between ELECTRABEL and the other suppliers¹³, Table 2 shows that for consumption sites connected to the network with voltage levels higher than 70 kV, in other words, the trans-

⁵ Point 1.1. above and Part 3, point 4.1., of this report.

⁶ Annual Report 2004, Part 2, point 3.2.2.

⁷ Own estimate based on supplies in 2003.

⁸ Article 2 of the decree of the Walloon Government of 21 April 2005 concerning the full opening up of the electricity market and the gas market (Belgian Gazette of 6 May 2005).

⁹ Article 27 of the decree of the Walloon Region of 12 April 2001 on the organisation of the regional electricity market.

¹⁰ Article 33 of the ordinance of 1 April 2004 on the organisation of the gas market in the Brussels-Capital Region, concerning the highway fee for gas and electricity and amending the ordinance of 19 July 2001 on the organisation of the electricity market in the Brussels-Capital Region.

¹¹ European Commission, Annual Report on the implementation of the gas and electricity internal market, COM(2004) 863, 5 January 2005.

¹² Annual Report 2004, Part 2, point 3.2.1.

¹³ On the basis of data provided by ELIA.

mission network to which the federal grid code¹⁴ applies, a total consumption of 2,034.9 GWh or 14.2% of the total energy consumption, was supplied by competitors of the historic operator.

The total volume of energy purchased by end customers from the transmission network fell from 15,667.4 GWh in 2004 to 14,358.0 GWh in 2005, partly as a result of supplies made in the context of local electricity generation. The proportion of energy purchased via the transmission network of ELECTRABEL therefore increased from 85.1% in 2004 to 85.8% in 2005. Three consumption sites supplied via the transmission network switched from one supplier to another in 2005, but both suppliers belong to the same industrial group.

Table 2: Supplies to customers connected to the networks with voltage levels higher than 70 kV for the year 2005

Suppliers	Consumption sites 1 January 2005	Consumption sites 31 December 2005	Energy taken up in 2004 (GWh)	Energy taken up in 2005 (GWh)
ELECTRABEL	56	59	13,338.7 (85.1%)	12,323.0 (85.8%)
Other suppliers	8	7	2,328.7 (14.9%)	2,034.9 (14.2%)
Total	61*	64**	15,667.4	14,358.0

* Three consumer sites were supplied by two suppliers simultaneously

** Two consumer sites were supplied by two suppliers simultaneously

Source: ELIA

Moreover, in the context of its competence to propose authorisations for the supply of electricity to customers connected to the Belgian transmission network, in 2005 the Management Board received four individual applications for authorisations submitted respectively by EDF BELGIUM, RWE KEY ACCOUNT, ESSENT BELGIUM and E.ON SALES & TRADING. The Management Board responded positively to these four applications by proposing to grant authorisation to each of them¹⁵. All proposals were followed by a ministerial decree granting authorisation¹⁶. In this way, the growing number of potential active suppliers is expected to improve competition in this market segment.

At the same time, the Management Board also received an application for the withdrawal of an authorisation to supply electricity granted to EDF, which on 1 September 2005 transferred all its supply activities to its Belgian subsidiary EDF BELGIUM. This application gave rise to a proposal to withdraw the authorisation¹⁷ from the Management Board, followed by a ministerial decree dated 16 December 2005¹⁸ repealing the ministerial decree of 14 January 2004 granting EDF an authorisation for the supply of electricity.

2.3.2. Price setting by default suppliers

In March 2005, the Management Board published two studies¹⁹ on its own initiative examining the differences between the tariffs which the two largest default suppliers, ELECTRABEL CUSTOMER SOLUTIONS (hereinafter: ECS) and LUMINUS, apply for their active customers and their standard customers in Flanders, Brussels and Wallonia. The Management Board requested ECS and LUMINUS to undertake an in-depth review of their tariff policy in the market for supplies of electricity to business customers or at least, as regards LUMINUS, to provide more information on this matter and improve the provision of information to retail customers.

In April 2005, ECS declared that they were prepared to adapt their tariff system in accordance with the objections expressed by the Management Board, while LUMINUS provided additional information about their tariff system. As a result of this, in June 2005 the Management Board published a new study²⁰ on the differences between the tariffs applied

by ECS for their active and standard customers and provided, amongst other things, an overview of the entire procedure and the main conclusions of this survey since early 2004. The Management Board has decided that the tariff differences observed are permissible.

By analogy, in June 2005 the Management Board also drew up a study²¹ on the differences between the tariffs applied by LUMINUS for its active and standard customers and also provided an overview of the entire procedure and the main conclusions of the survey since early 2004. Although the Management Board judged that the most recent tariff differences could be explained by this additional information and thus did not constitute a legal infringement of competition or trading law, it nevertheless rejected the substantial tariff differences and asked LUMINUS to review its standard tariffs promptly. In July 2005, LUMINUS announced that it will take account of the observations made in the study. To date the Management Board has not received any additional information from LUMINUS on this matter.

¹⁴ Part 1, point 2.6.2.2., of this report.

¹⁵ Proposals (E)050608-CDC-439, (E)050608-CDC-442, (E)050908-CDC-456 and (E)051117-CDC-489.

¹⁶ Ministerial decree of 1 July 2005 (Belgian Gazette of 4 August 2005); ministerial decree of 1 August 2005 (Belgian Gazette of 26 August 2005); ministerial decree of 21 October 2005 (Belgian Gazette of 18 November 2005) and ministerial decree of 16 December

2005 (Belgian Gazette of 10 March 2006).

¹⁷ Proposal (E)051103-CDC-487.

¹⁸ Belgian Gazette of 10 March 2006.

¹⁹ Studies (F)050317-CDC-414 and (F)050317-CDC-415.

²⁰ Study (F)050602-CDC-441.

²¹ Study (F)050630-CDC-445.

2.3.3. Maximum prices

As regards the maximum prices charged for the supply of electricity to protected, household customers, the Royal Decree of 27 January 2005²² set the amount of the fund intended to finance the actual cost further to the application of maximum prices for the supply of electricity to the aforementioned customers at € 25.44 million for the year 2005.

As a result of a request from the Minister for Energy to look into the phenomenon observed, whereby in a number of cases the social prices (for both electricity and gas) are higher than the so-called normal prices, on 14 July 2005 the Management Board approved a memorandum that indicates the various possible routes offering a structural solution to this problem. The Council-General also issued advice on this matter²³. While awaiting a structural solution, the Management Board proposed a temporary solution to the Minister for Energy, designed to prevent a situation like this arising again.

As regards the maximum prices which distribution network operators have to apply for non-protected end customers whose supply contract has been terminated, the rules for establishing these maximum prices were laid down in the Ministerial Decree of 1 June 2004²⁴. This states that the distribution network operators must ensure supplies to these customers in accordance with the valid regional legislation, at the maximum prices established as follows: Energy price + Transmission network tariff + Distribution network tariff + Margin. The margin is an amount added to the first three components of the formula if this sum is lower than the average of the most recent prices announced by suppliers in the distribution area of the distribution network operator for a similar category of customers. In this case, the margin, which has to be calculated twice a year, is equal to the difference between the aforementioned average and the sum of the first three components of the formula. In all other cases, the margin is equal to zero.

Moreover, in application of the aforementioned Ministerial Decree, the Management Board has laid down additional rules for the calculation of this margin²⁵, specifically as regards the identity of the suppliers whom the distribution network operators have to take into consideration when calculating the average, and as regards the type of customers for whom they have to calculate a margin.

The Management Board decided that when calculating the margin, the distribution network operators have to calculate the weighted average of the prices applied by suppliers who supply at least 3% of the household customers in the

distribution zone of the distribution network operators, provided that all these suppliers together supply at least 90% of these same customers. Therefore, the distribution network operators have to use the prices that are applied by these suppliers on 1 June and 1 December. To establish a margin on the basis of the supplier prices for a similar category of customers, the Management Board has decided that the distribution network operators have to calculate a margin for two types of customers (3,500 kWh and 20,000 kWh, including a proportion exclusively at the night-time tariff). All household customers are included in one of the two categories, depending on their consumption, which is decisive for the margin that will be applied to them.

2.3.4. Extension of the night-time tariff to weekend

On 6 October 2005, the Management Board, at the request of the Minister for Energy, approved a study on the impact of extending the night-time tariff to the weekend for network users connected to the low-voltage network²⁶. This study provides an overview of a number of points that should be taken into account upon the possible introduction of the "weekend tariff". The Council-General has also expressed an advice on this study²⁷.

2.4. Liquidity on wholesale market

2.4.1. Establishment of Belgian power exchange

In anticipation of the establishment and organisation of the Belgian power exchange, the Management Board drew up an advice²⁸ on the draft Royal Decree on this issue, in which, after carrying out a critical analysis, it emphasises the risks that are inherent in the proposed legal framework. Four sensitive issues in particular are dealt with, namely the independence of the market operator, the inadequate arrangements for the publication of market data, the way in which the task of allocating daily capacity on the inter-connections is transferred from the transmission network operator to the market operator and finally the possible supervision by the competent authorities of the way in which the power exchange operates. The Council-General supported the Management Board's analysis in its advice²⁹.

The Royal Decree of 20 October 2005 concerning the establishment and organisation of a Belgian market for the exchange of energy blocks³⁰ takes account of both these advices, except as regards the considerations relating to possible supervision by the competent authorities. The

²² Belgian Gazette of 17 February 2005.

²³ Part 3, point 2.1., of this report.

²⁴ Annual Report 2004, Part 2, point 2.9.4.

²⁵ Decision (B)041202-CDC-384.

²⁶ Study (F)051006-CDC-480.

²⁷ Part 3, point 2.1., of this report.

²⁸ Advice (A)050630-CDC-446.

²⁹ Advice CG130705-023, Part 3, point 2.1., of this report.

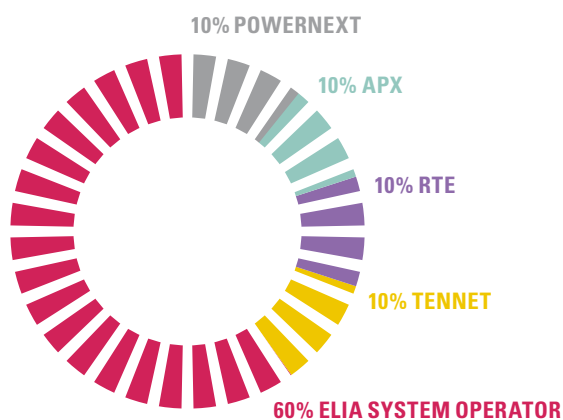
³⁰ Belgian Gazette of 26 October 2005.

modifications constitute a considerable improvement in the regulation of the power exchange.

BELPEX, the company responsible for the organisation of the power exchange, was legally established on 7 July 2005 by ELIA SYSTEM OPERATOR (hereinafter: ELIA), by the Dutch and French power exchanges, APX and POWERNEXT and by TenneT, the Dutch operator of the electricity transmission network.

On 28 October 2005, BELPEX submitted its draft market regulations to the Minister for Energy, together with a request for recognition as market operator. After conducting an investigation, the Management Board issued an advice³¹ on the draft regulations, proposing that they be rejected as they contained provisions that are too vague, incomplete, imbalanced or contrary to the aforementioned Royal Decree. The Management Board considered the application for recognition incomplete. The Management Board pointed out to the Minister that the proposal did not fulfil the requirement laid down in Article 4, §1, 6°, of the aforementioned Royal Decree, according to which producers, intermediaries or suppliers may not own more than 10% of the capital or the voting rights in the candidate market operator through a direct or indirect participation³².

Figure 1: Structure of the BELPEX shareholding body



Source: www.Belpex.be

With seed capital of € 3 million, the Belgian power exchange should in principle come into operation in the course of 2006. With this in mind, in an initial phase³³ BELPEX will offer an electricity platform for trading electricity on a day-ahead basis. VPP products³⁴ will also be offered on this exchange. In principle, BELPEX will also be linked to the French and Dutch power exchanges by means of a matching mechanism covering these three markets, which will be

characterised by common management of the transactions on each of the three markets, bearing in mind the available capacity on the interconnections on the borders. The advantages of this market matching are greater liquidity on the market, better allocation of resources, growing use of daily capacity on the interconnections on the borders and better congestion management.

2.4.2. Roadmap for regional integration of electricity markets

On 5 July 2005, the French (CRE), Dutch (DTe) and Belgian (CREG) regulators held a joint public consultation on the regional market integration of these three wholesale electricity markets. The aim of this integration is to improve liquidity, security of supply and price stability in these three markets, to increase the availability of the cross-border capacity between the three countries and to improve the use of this capacity for the benefit of French, Dutch and Belgian consumers.

The public consultation process that was concluded on 5 September 2005 covered a wide range of subjects, including the commercialisation of cross-border capacity, day-ahead market coupling, the cross-border intraday and balancing market, market transparency, market power and cooperation between regulators.

The market parties' contributions to this public consultation process helped the regulators to define a common approach for the progressive regional integration of the three markets. This common approach resulted in the publication of a "roadmap" describing the various steps for the implementation of the regional integration of the three markets.

2.4.3. How the Belgian electricity market operates

On the basis of an external study³⁵, the CREG Council-General drew up an advice³⁶ relating to the current operation of the Belgian electricity market, in which it analysed various aspects that may impact on the free market process, including the vertical integration of market parties, concentration in terms of generation, capacity on the interconnections and the importance of balancing and other ancillary services. The Council-General also discussed the regulation and the regulation risk, the role of renewable energy sources and co-generation and pricing. Finally, the advice draws attention to the role played by the power exchange and each measure relating to the transparency of prices and liquidity in the market.

³¹ Advice (A)051208-CDC-496.

³² Study (F)051208-CDC-497.

³³ As the power exchange gains maturity, in the future other products may be offered.

³⁴ Part 1, point 2.4.4., of this report.

³⁵ Study ARCG-LE102004 from London Economics on the structure and operation of the electricity market in Belgium from a European perspective, conducted in October 2004 at the request of the CREG Council-General and available at www.creg.be.

³⁶ Advice AR270405-020, Part 3, point 2.1., of this report.

2.4.4. Auctioning virtual power plants

On 25 July 2005, CREG submitted a complaint to the Competition Council relating to the protection of economic competition, owing to the failure by ELECTRABEL to comply with the decisions taken by the Competition Council on 4 July 2003³⁷. In particular this concerned one of the conditions, whereby ELECTRABEL has to make available 1,200 MW to its competitors by means of VPP auctions. CREG believes that ELECTRABEL is infringing the definition of "reserve price" used in these decisions. In its complaint, CREG requests the Competition Council to define this term as understood by CREG and consequently to impose certain obligations upon ELECTRABEL.

Moreover, the Management Board has made an evaluation of the implementation of VPP on 28 February 2005³⁸ on the basis on the one hand of the results of the first six auctions of VPP products and on the other of a survey of the percentage of VPP products exercised over a period of eleven months (from 1 April 2004 to 28 February 2005), representing a volume of generated electricity of 3,552 GWh.

The evaluation reveals that 65% of VPP products were purchased by suppliers and 35% by traders. The exercise percentage of these VPP products amounted to 99% for base-load products and 49% for peak-load products. The analysis of the nominations introduced to ELIA for the period reviewed also indicates that the activity of VPP product purchasers on the Belgian hub increased by 25% between the first and last quarters of 2004. However, it was impossible to determine whether the VPP products were intended for the Belgian market or for export.

In its advice³⁹ on the evaluation prepared by the Management Board, the Council-General asked the Management Board to complete its analysis by including the results of the seventh auction, which took place in May 2005. The second study that resulted from this⁴⁰ indicates that 82% of the capacity offered was actually sold during the first seven auctions and that the average duration of the products sold is continuing to increase. Whereas the number of buyers remains limited to a maximum of ten, 60% of the VPP products were bought by suppliers and 40% by traders.

2.5. Generation of electricity

2.5.1. Evolution of Belgian electricity generating market

The BFE, the federation of electricity generators and distributors in Belgium, and FIGAS, the Federation of the Gas Industry, have decided to combine their production and supply activities to form the Federation of the Belgian Electricity and Gas companies, FEBEG. However, FEBEG is not in a position to provide statistics relating to the Belgian electricity generation market as a whole, which appeared in previous reports from the BFE. FEBEG only has the production data of its members, which do not include the autonomous generators⁴¹ and the self-generators⁴².

In 2004, the electricity companies that are members of the BFE⁴³ generated 79,348.4 GWh, or more than 97% of the total energy generated in Belgium⁴⁴. Table 3 shows the electrical power generated in 2005 by power stations operated in Belgium by ELECTRABEL and SPE, that corresponds to 80,568.7 GWh.

Table 3: Net generation of electrical energy by electricity companies⁴⁵ in the Belgian market in 2005 (GWh)

	Flemish Region	Walloon Region	Brussels-Capital Region	Total
NET PRODUCTION	48,387.6	31,891.4	289.6	80,568.7
Thermal generation	48,358.0	30,400.5	289.6	79,048.1
Nuclear fuel	21,926.9	23,408.5	0	45,335.4
Fossil and secondary fuels	26,431.1	6,992.0	289.6	33,712.7
Hydraulic generation	0	1,462.4	0	1,462.4
Water course and barrage power plants	0	267.9	0	267.9
Pumped storage power plants	0	1,194.6	0	1,194.6
Generation using wind power	29.6	28.5	0	58.1

Source: FEBEG

³⁷ For the references of these decisions, see Annual Report 2003, Part 1, point 2.5.1.

³⁸ Study (F)050512-CDC-420.

³⁹ Advice AR130705-024.

⁴⁰ Study (F)050908-CDC-455.

⁴¹ Companies or institutions which, through their main activity (e.g. waste incineration, water course management) generate electrical energy that is intended to be sold to a third party (BFE definition)

⁴² Companies which, in addition to their main activity, generate electricity themselves that is intended entirely or partially for their own consumption (BFE definition).

⁴³ Electrical energy generated by power plants that are operated by ELECTRABEL and SPE.

⁴⁴ Companies whose main aim is the generation, transmission and distribution and/or the supply of electrical power (BFE definition).

⁴⁵ The data originated from the BFE brochure - Statistics 2004.

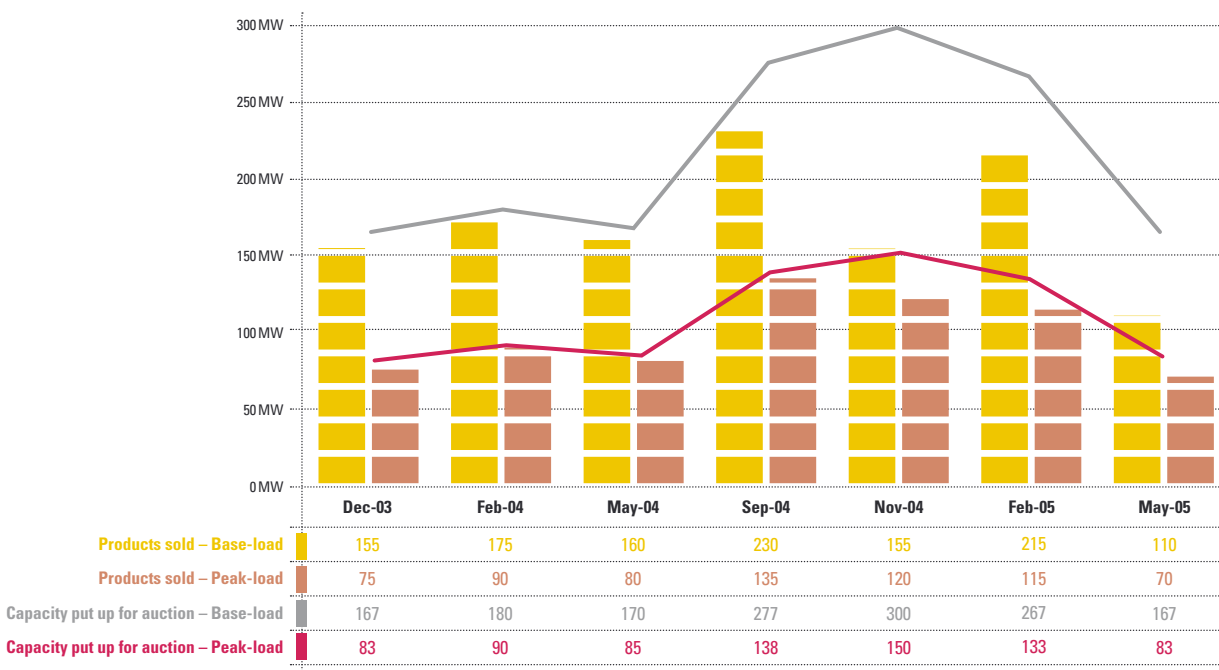
The evolution of the Belgian electricity generation market in 2005 was characterised by the following major events:

- the granting, at the proposal of the Management Board, by the Minister for Energy, of authorisation for an electricity power plant⁴⁶, which should increase the available generating capacity on the Belgian electricity generating market;
- the entry on 24 June 2005 of the foreign operators GDF and CENTRICA into the company capital of SPE, Belgium's second largest electricity generator, with a holding of 51%, via the common subsidiary SEGEBEL;

sold. In the context of the SUEZ bid for ELECTRABEL, it was agreed that ELECTRABEL would make such sites available to make it possible to build up new accumulated capacity of 1,500 MW. These measures are scheduled to come into force in 2006;

- the auctions of VPP products⁴⁸ by ELECTRABEL⁴⁹, on 16 February and 12 May 2005, respectively, during which capacity amounting to 400 MW and 250 MW, respectively, was offered, divided into base-load products and peak-load products (Figure 2 below). The percentage of products sold during these two auctions amounted to 83% and 72%, respectively.

Figure 2: Capacity put up for auction and products sold per type of VPP product in the period 2003-2005 (MW)



Source: www.Belpex.be

- the launch, on 9 August 2005, of the acquisition and exchange bid from the French group SUEZ for all stocks in its Belgian subsidiary ELECTRABEL, which it did not yet own. After the completion of this transaction, which was concluded on 6 December 2005, SUEZ owned almost 99% of ELECTRABEL⁴⁷;
- the government decision according to which the unused sites that are suitable for generating electricity must be offered for sale to newcomers on the Belgian market, so that they can use them to create new generating capacity. Initially this sale will take place on a voluntary basis. After that, a levy will be introduced on unused sites that are not

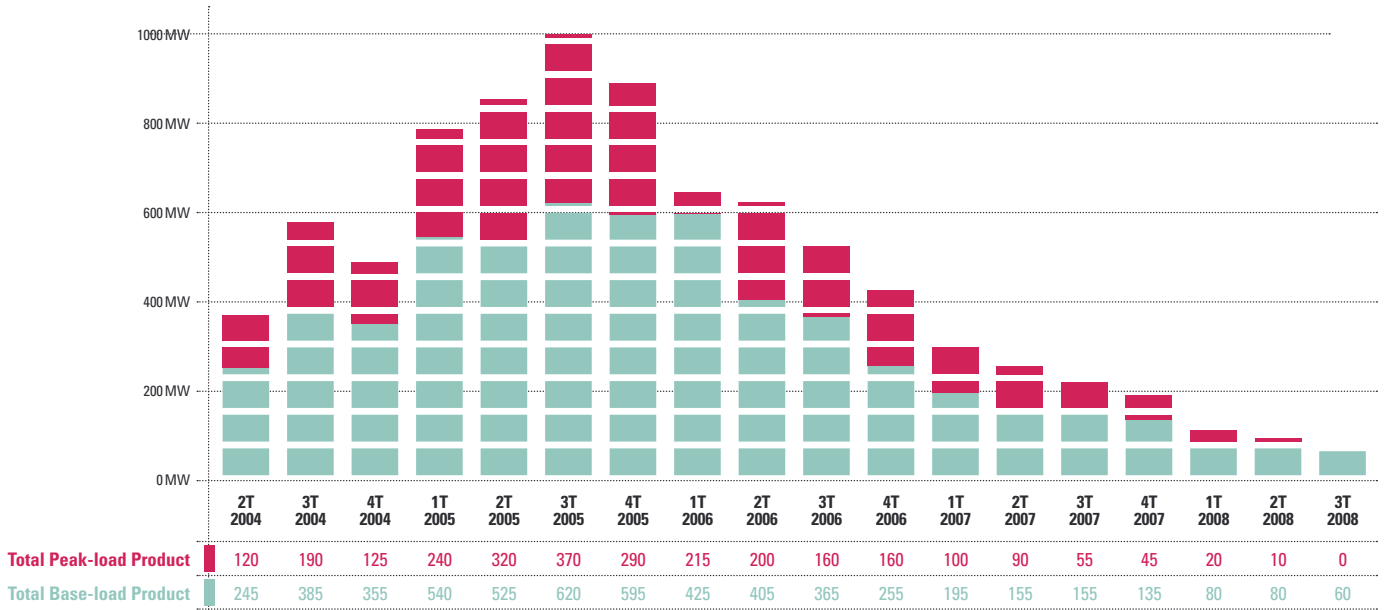
In all, 82% of the total products offered during the seven auctions that have been organised so far have been sold. Taking account of these seven auctions, at the end of May 2005 the accumulated, non-matured capacity offered on the market amounted to 1,195 MW, of which 1,125 MW was actually purchased. Since then, no further auctions have been held, but at the end of each quarter in 2005 part of the accumulated capacity offered on the market matured: 240 MW on 30 September 2005 and 245 MW on 31 December 2005. At the end of 2005, the accumulated and non-matured capacity offered on the market therefore fell to 710 MW.

⁴⁶ Part 1, point 2.5.3. of this report.

⁴⁷ www.suez.com

⁴⁸ Annual Report 2004, Part 2, point 2.1.5.

⁴⁹ Part 1, point 2.4.4. of this report.

Figure 3: Profile of the accumulated capacity that can be exercised per quarter

Source: www.Belpex.be

The profile of the accumulated capacity that can be exercised by purchasers of VPP products is given in Figure 3⁵⁰. For each of the seven auctions held until the end of May 2005, the two types of products (base-load and peak-load products) were each made up of ten VPP products with a maturity of 3, 6, 12, 24 and 36 months and with varying supply start dates (two dates per auction). It is important to note here that the profile given in Figure 3 may only be regarded as definitive insofar as no further auctions have been held.

Finally, Table 4 shows the trend in the number of market parties present during the various phases of qualification and the number of rounds that proved necessary to establish the end price for the capacity on offer for each type of product, that is at the time of clearing, when the total capacity for a certain type of product demanded is lower than or equal to the capacity on offer for this type of product.

Table 4: Qualification of market parties and duration of auction per type of product in the period 2003-2005

	Dec. 03	Feb. 04	May 04	Sep. 04	Nov. 04	Feb. 05	May 05
Registered parties	33	34	33	35	34	35	35
Qualified parties	18	14	15	15	16	13	15
VPP purchasers	7	6	9	7	9	10	6
Number of rounds for Base-load	9	6	7	5	5	4	5
Number of rounds for Peak-load	7	5	5	6	5	3	5

Source: CREG

2.5.2. Indicative programme for power generation 2005-2014

In accordance with the Electricity Act, on 20 January 2005, having consulted the Council-General⁵¹, the Management Board submitted a proposal for an indicative programme for power generation 2005-2014⁵² (hereinafter: the indicative programme) for approval by the Minister for Energy.

This indicative programme is an adapted version of the first indicative programme for power generation 2002-2011⁵³ and takes account of the objectives set by the regions as regards Belgium's international commitments in the field of environmental protection. In this context, the capacities to be invested in the period 2005-2014 amount to 1,729 MW in renewable energy sources and 1,749 MW in qualitative co-generation. A voluntarist policy on the rational use of energy and demand management should make it possible to consolidate the approach aimed at reducing emissions of greenhouse gases, limiting the consumption of primary energy sources and reducing dependency on imported energy.

possible to consolidate the approach aimed at reducing emissions of greenhouse gases, limiting the consumption of primary energy sources and reducing dependency on imported energy.

⁵⁰ For further details on products sold depending on maturity and supply date, see www.Belpex.be.

⁵¹ Advice AR190105-019, Part 3, point 2.1., of this report.

⁵² Proposal (C)050120-CREG-388.

⁵³ Annual Report 2002, Part 1, point 3.4.

In addition to this, the development of the European internal market for electricity stimulates cross-border exchanges. Given the risk of a progressive reduction in surplus generating capacity in neighbouring countries, however, the structural import possibilities for competitive electricity should not be overestimated.

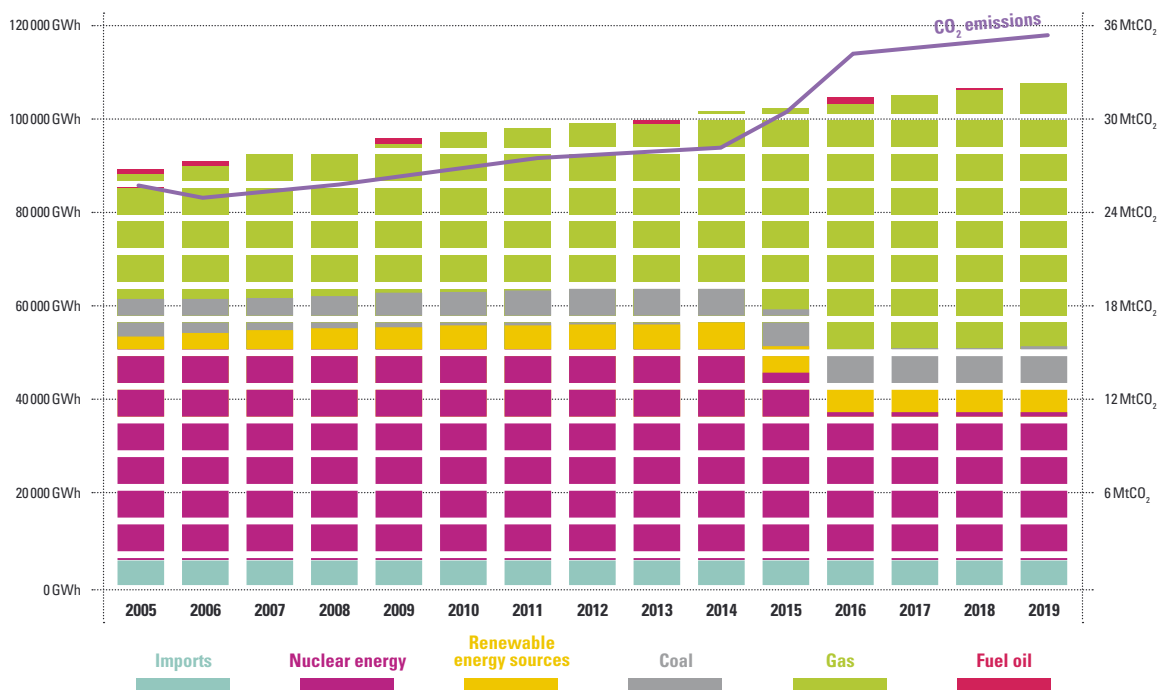
Due to concerns about the security of electricity supplies in Belgium, the indicative programme therefore recommends a policy of investing in centralised generating units, based on a cautious scenario (scenario S2, autonomous Belgium: Figure 4 below) as regards the future availability of decentralised production and imports to cover demand. By 2014, this policy will involve taking decisions about investments in eight units using combined steam and gas cycles (CCGT plants) of 400 MW and four gas turbines with open cycles (GT) of 80 MW; three of these CCGT units and the four GT units will come into operation by the end of 2014. The first GT units are expected to come into operation in 2008 and the first CCGT unit in 2009. Given the schedule for the commissioning of the central CCGT and GT units, it is important that decisions about the initial investments are taken quickly. The decisions that will have to be taken over the next three years, that is before the next adaptation of the indicative programme, concern two CCGT units and three GT units.

The analyses carried out have shown that the recommended policy for the centralised plants continues to record good results in terms of CO₂ emissions and costs in the various market situations analysed. Moreover, this is a flexible policy under which the planned investments can be deferred in line with market developments, if necessary.

The policy of taking refuge in gas technologies, currently prompted by political and technical, economic and environmental considerations, is increasing the role of gas in electricity generation. Europe's growing dependence on imported energy increases the risk of interruptions in fuel supplies to power plants and the sensitivity of electricity prices to price fluctuations on the natural gas market. From this point of view, it is crucial that from now on a mixed development is examined on the basis of gas and "clean" coal-fired power plants, in order to respect the environment and at the same time ensure sufficient diversification of the energy sources used to generate electricity.

In a liberalised market, the indicative programme provides the Government with data that can help them formulate and follow up their energy policy for electricity, to cope with concerns relating to the general interest. For the market parties, the indicative programme can be a source of information about the probable development of requirements in terms of production capacity in the medium term. For CREG, it is a reference with a view to the proposals to be put to the Minister for Energy as regards granting authorisations for electricity generation.

Figure 4: Evolution of electrical energy generated and CO₂ emissions (scenario S2, autonomous Belgium)



Source: CREG

In legal terms, Article 3 of the Law of 1 June 2005⁵⁴ re-names the indicative programme in “prospective study” to be drawn up by the Directorate General for Energy, a draft version of which will be submitted to CREG for an advice.

2.5.3. Electricity generating plants

In April 2005, the Management Board put forward a proposal⁵⁵ concerning the construction of two open-cycle gas turbines by SPE on the Ham site (in Gent). These gas turbines replace three old diesel engines that use heavy fuel oil, the closure of which will bring about a substantial reduction in SO₂ and NO_x emissions. The authorisation was granted to SPE in a Ministerial Decree of 1 August 2005⁵⁶.

At the end of 2005 the Management Board put forward a proposal⁵⁷ concerning the construction by SLECO-Centrale of a circulating fluidised bed on the INDAVER site in Doel, for the processing of high calorific value, non-toxic waste and sludge, whereby a part of the energy can be recovered and converted into electricity.

On 31 December 2005, three other authorisation applications were still pending. Firstly, an application from SPE for the adaptation, accompanied by an increase in capacity, of an existing CCGT unit in Angleur. Secondly, an application from T-POWER for the construction of a new CCGT unit in Tessenderlo and thirdly, an application from ELECTRABEL for the adaptation of an existing conventional unit in Amercoeur into a CCGT unit with a greater capacity.

In legal terms, Article 4 of the Law of 1 June 2005⁵⁸ states that henceforth, individual authorisations for new generating facilities will be issued by the Minister having taken advice from but no longer at the proposal of CREG. This law also introduces a procedure for inviting bids for the construction of new facilities for electricity generation when security of supply is not adequately guaranteed by the generation capacity under construction, measures relating to energy efficiency or demand management.

Article 4 of the Electricity Act is also supplemented by the Law of 20 July 2005⁵⁹ which entrusts the King, having taken advice from CREG, with the task of establishing the special conditions relating to generation variances applicable to new generating facilities, if the authorisation holder has supplied no more than 10% of the energy used in Belgium during the previous year. In this context, in October 2005

the Minister for Energy put a number of questions to the Management Board, which decided to publish a study on this subject⁶⁰. In this study, the Management Board emphasises that when implementing these measures, particular attention will have to be paid to maintaining a balance between the flexibility necessary to enable access responsible parties to benefit as much as possible from these measures on the one hand and the rules that the transmission network operator has accepted to prevent access responsible parties from using the balancing mechanism for energy sourcing on the other.

2.5.4. Domain concessions

In 2005, the Management Board received an application for a domain concession from ELDEPASCO to establish a wind farm approximately 40 km from the Belgian coast. Although the domain in question was opened up to competition in accordance with the Royal Decree of 20 December 2000⁶¹, the Management Board did not receive any applications competing. On 31 December 2005, the application procedure had not yet been completed.

In legal terms, Article 6 of the Law of 1 June 2005⁶² states that henceforth domain concessions will be granted by the Minister, having taken advice from but no longer at the proposal of CREG.

2.5.5. Green certificates

On 1 September 2005, the Management Board, at the request of the Minister for Energy, issued an advice⁶³ on a draft royal decree modifying the support measures for the generation of electricity using offshore wind power.

The proposed amendments concerned:

- an increase in the minimum price for the production of offshore wind power generated using facilities that are the subject of a domain concession amounting to the first 216 MW from 90 €/MWh to 107 €/MWh;
- an extension to twenty years of the length of time for which the network operators obligation to purchase green certificates for offshore wind power applies, while the purchase obligation for the other sources of renewable energy is set at ten years;

⁵⁴ Law of 1 June 2005 amending the Law of 29 April 1999 concerning the organisation of the electricity market (Belgian Gazette of 14 June 2005). On 31 December 2005, this amendment had not yet come into force.

⁵⁵ Proposal (E)050421-CDC-418.

⁵⁶ Belgian Gazette of 26 August 2005.

⁵⁷ Proposal (E)051201-CDC-493.

⁵⁸ Law of 1 June 2005 amending the Law of 29 April 1999 concerning the organisation of the electricity market (Belgian Gazette of 14 June 2005). On 31 December 2005, this amendment had not yet come into force.

⁵⁹ Belgian Gazette of 29 July 2005.

⁶⁰ Study (F)051110-CDC-488.

⁶¹ Annual Report 2001, Part 1, point 2.1.

⁶² Belgian Gazette of 14 June 2005. On 31 December 2005, Article 6 had not yet come into force.

⁶³ Advice (A)050901-CDC-452.

- the fact that the obligation to purchase green certificates for twenty years at the aforementioned prices for electricity generated using offshore wind power, at the initiative of the network operator, should be the subject of a contract between the domain concession holder and the network operator.

In this advice, the Management Board noted that there had been no reaction to its proposal of 12 February 2004⁶⁴. The Management Board believes that the proposed amendments to the Royal Decree of 16 July 2002 could mean a substantial extension of the minimum guaranteed income flows and will promote the development of offshore wind farms. However, the Management Board does not consider the introduction of a threshold of 216 MW desirable and considers that establishing minimum prices for offshore wind power by means of a contract is unacceptable given that in this way the King in fact delegates the competence to set minimum prices for offshore wind power to the network operator and the domain concession holder, which implies an abuse of power. Finally, the Management Board wonders what incentive the network operator has, to take the initiative to conclude such a contract.

The Royal Decree of 5 October 2005⁶⁵ does not take account of the main comments contained in the advice.

Another modification of the legal framework concerns the addition, through the Law of 20 July 2005⁶⁶ of a new paragraph in Article 7 of the Electricity Act, stipulating that for new electricity generating facilities that are the subject of a domain concession, the network operator is responsible for one-third of the cost price of the undersea cable for a maximum amount of € 25 million for a project relating to 216 MW or more. This financing is spread over five years and this amount covers the purchase, supply and laying of the undersea cable, as well as the connection facilities, equipment and connections of the aforementioned electricity generating facilities. CREG monitors the total costs to be taken into account for the financing.

2.6. Transmission of electricity

2.6.1. ELIA stock market flotation

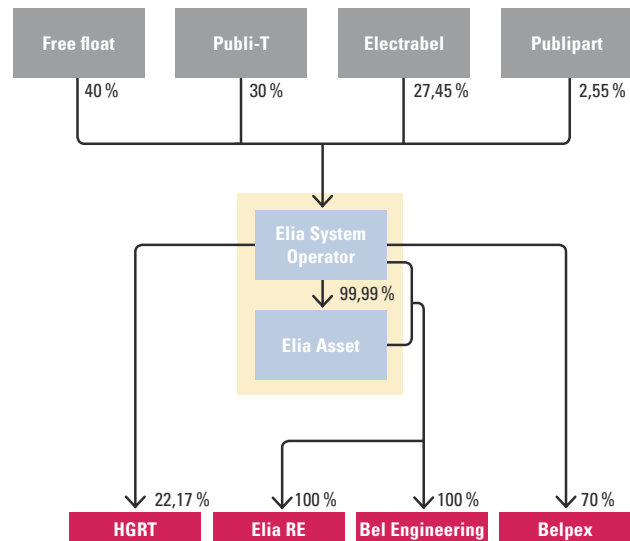
The year 2005 was characterised by the stock market flotation, on 9 June, of the electricity transmission network operator ELIA and consequently the listing of ELIA shares on the Euronext Brussels regulated market.

In this context, and on the basis of the protocols of 30 May and 8 October 2001, concluded between the Belgian

Government, ELECTRABEL, SPE, CPTÉ and Public-T⁶⁷, virtually 16.8 million shares in the possession of ELECTRABEL and SPE, or 40% of all existing shares, were transferred.

Along with this sale of existing shares, new ELIA shares were issued, part of which were intended exclusively for ELIA staff. After the subscription procedure for these new shares, in which ELECTRABEL and SPE were also able to participate, the shares held by these two electricity generating companies amounted respectively to 27.45% and 2.55%, of the authorised capital of ELIA, compared with 64.05% and 5.95%, respectively, before the ELIA capital increase. The proceeds from the sale as a result of the subscription for new shares will strengthen the financial structure of ELIA, in compliance with the normative own funds/third-party fund ratio of 33/67, with a view to the financing of cross-border capacities and infrastructure in Belgium.⁶⁸

Figure 5: ELIA shareholders



Source: ELIA

2.6.2. Transmission network operation

2.6.2.1. Corporate governance

In May 2005, the first mandate of the six independent directors of ELIA came to an end. In accordance with the provisions of the Royal Decree of 3 May 1999 on the management of the national transmission network for electricity, the independent directors were appointed by the general shareholders' meeting of ELIA from among the candidates on a double list put forward by the corporate governance committee and after unanimous advice from CREG. In

⁶⁴ Annual Report 2004, Part 2, point 2.1.4.

⁶⁵ Royal Decree of 5 October 2005 amending the Royal Decree of 16 July 2002 concerning the introduction of mechanisms for the promotion of electricity generating using renewable energy sources (Belgian Gazette of 14 October 2005).

⁶⁶ Belgian Gazette of 29 July 2005.

⁶⁷ Annual Report 2002, Part 1, point 3.3.1.

⁶⁸ See also the ELIA prospectus on the offer from ELECTRABEL and SPE to sell existing shares and the bid to subscribe to newly issued ELIA shares, available on www.elia.be.

application of this, the CREG Management Board issued twelve positive advices⁶⁹, taking as evaluation criteria the impartiality and the independence of the candidates. The Management Board believes that adequate critical involvement is only displayed if the independent directors, when gathering information, do not confine themselves to the information made available to them by the transmission network operator but also actively collect details from other parties involved, such as the network users and the regulators. To encourage this, the Management Board organises six-monthly consultations with the independent directors of the transmission network operator.

At the end of 2005, the Management Board was informed that one of the independent directors was resigning and that the appointment procedure for a new independent director was consequently underway. However, as Article 9, §2, of the Electricity Act has since been amended by the Law of 1 June 2005, the Management Board will only be able to give it advice *a posteriori*, that is after the person in question has been appointed by the competent body of the transmission network operator. In addition, the aforementioned Law of 1 June 2005 also made a number of other changes to the corporate governance provisions contained in the Electricity Act, such as the independence requirements of the transmission network operator and the composition of its board of directors and its management board.

In addition, the Management Board issued two advices⁷⁰ in 2005 on the renewal of the mandate of the two auditors at ELIA.

2.6.2.2. Grid code

2.6.2.2.1 General terms and conditions of connection contracts, access responsibility contracts and access contracts

The general terms and conditions of the connection contracts, the access responsibility contracts and the access contracts offered by the transmission network operator to network users, as well as amendments to these contracts, have to be approved by the Management Board.

After the rejection in 2004 of the first version of the general terms and conditions of the ELIA connection contract⁷¹, in September 2005 the latter submitted a new version to the Management Board. However, the Management Board was once again obliged to reject the general terms and conditions as a whole⁷², partly because firstly the (level of

the) services provided by ELIA relating to the management and, if necessary, the implementation of the connection facilities was not specified, secondly, the tariffs had been inadequately formulated in the event of the management of the connection being entrusted to the network user and thirdly, because the connection contract did not include any (clear) regulations for situations in which several network users were connected to the transmission network via one connection.

Moreover, the Management Board has decided, under certain conditions, to approve⁷³ the changes made to certain general terms and conditions of the access responsibility contracts by ELIA. These modifications were prompted by the introduction of a system of explicit auctions in both directions at the interconnection between Belgium and France. These modifications were approved on condition that ELIA publishes on its website the possibilities that access responsible parties have to avoid or correct imbalances and the rules, conditions and information concerning the proposed auction mechanism. In addition, ELIA is to inform the access responsible parties of this information directly. One aspect of these conditions was altered by the decision of 1 December 2005⁷⁴.

Finally, the Management Board also approved a number of minor modifications made to the general terms and conditions of the access contract⁷⁵. These modifications were proposed by ELIA and are designed to bring the provisions of this contract into line with the methodology for setting tariffs for local generation, as approved by the Management Board on 8 September 2005.

2.6.2.2.2. Reconstruction code

The transmission network operator is to draw up a reconstruction code setting out, amongst other things, the operational procedures to be applied by the access responsible parties, the network users and the other network operators when the electrical system has to be re-established following a total or partial breakdown.

At the end of 2003, ELIA submitted a draft reconstruction code to the Management Board for consultation and in February 2004 the Board issued an advice on this matter⁷⁶. On 22 April 2005 ELIA passed the final version of the reconstruction code to the Management Board. This version took account of certain comments made by the Management Board, including those relating to adopting the operational procedures that apply to distribution network operators and the network users concerned.

⁶⁹ Advices (A)050504-CDC-422 to 432.

⁷⁰ Advices (A)050203-CDC-393 and 394.

⁷¹ Annual Report 2004, Part 2, point 2.2.2.1.

⁷² Decision (B)051020-CDC-478/1.

⁷³ Decision (B)051117-CDC-492.

⁷⁴ Decision (B)051201-CDC-494, see Part 1, point 2.6.2.4., of this report.

⁷⁵ Decision (B)051201-CDC-495.

⁷⁶ Annual Report 2004, Part 2, point 2.2.2.2.

2.6.2.2.3. Rescue code and load-shedding plan

The transmission network operator has to draw up the rescue code and pass this on to CREG. This code specifies, amongst other things, the operational procedures applicable for the parties, the network users and the other network operators with a view to guaranteeing the security, reliability and efficiency of the network.

In the context of the rescue code, at the proposal of the network operator and having taken advice from CREG, the Minister for Energy established the load-shedding plan. In July 2003, the Management Board issued an advice on the proposed load-shedding plan drawn up by ELIA⁷⁷. In a Ministerial Decree of 3 June 2005⁷⁸, the Minister for Energy established the load-shedding plan for the electricity transmission network.

On 5 December 2005, ELIA presented a new version of the rescue code to the Management Board.

2.6.2.2.4. Reserve capacity

The transmission network operator, ELIA, has to assess and determine the primary, secondary and tertiary reserve capacities that contribute towards ensuring the security, reliability and efficiency of the transmission network in the adjustment zone. It has to submit its evaluation method and the results of this evaluation to CREG for approval.

On 26 May 2005, the Management Board approved the evaluation method for the determination of the primary, secondary and tertiary reserve capacities and the application thereof for 2006⁷⁹.

2.6.2.2.5. Balancing mechanism

The balancing mechanism for the compensation of the 15-minute imbalances in operation until the end of 2005 was considered by many to be an obstacle to the entry of new players into the Belgian electricity market. Following a number of meetings, the Management Board requested ELIA to put forward a proposal for new market rules to compensate for the 15-minute imbalances.

The proposed new mechanism concerns the market rules that govern the reservation and activation of the reserve capacity intended to compensate for the 15-minute imbalances and is supposed to enable smaller producers to take part in the services for compensating for the 15-

minute imbalances as well. In addition, it includes rules designed to discourage gaming. Finally, it is designed in such a way that it can be integrated into the mechanisms of neighbouring countries without too much difficulty, in anticipation of the establishment of a regional North-west European market that is essential for the development of competition at national level.

During its meeting of 22 December 2005, the Management Board⁸⁰ decided to approve the proposal put forward by ELIA, that will come into effect as of 1 January 2006, subject, amongst other things, to an improvement in the rules on transparency and market information and on condition that the transmission network operator sets up a monitoring system.

2.6.2.3. Development plan

The transmission network operator, in consultation with CREG, has to draw up a development plan for the transmission network that is submitted to the Minister for Energy for approval.

In the context of this consultation, on 15 July 2005, ELIA sent a draft of the transmission network development plan 2005-2012 to CREG. The Management Board issued a memorandum⁸¹ on the draft and formulated this to the Council-General which confirmed the general comments contained in the aforementioned memorandum⁸².

The main comments made by the Management Board concern:

- the basic hypothesis relating to centralised generation that differs from the recommended investment policy laid down in the proposal for the indicative programme for power generation 2005-2014⁸³;
- the conditional nature of some of the investments and the lack of a budget estimation for various investments planned by 2008;
- the choice of certain scenarios used to establish the dimensions of the network; specifically the scenario that provides for imports of 3,700 MW into Belgium by 2008 is not considered very realistic, and the lack of a scenario that combines imports with a substantial transit volume.

On 16 September 2005, ELIA submitted the transmission network development plan 2005-2012 to the Minister for Energy for approval. This plan takes account of the com-

⁷⁷ Annual Report 2003, Part 1, point 2.2.3.

⁷⁸ Ministerial Decree of 3 June 2005 on the establishment of the load-shedding plan for the electricity transmission network. (Belgian Gazette of 18 August 2005).

⁷⁹ Decision (B)050526-CDC-438.

⁸⁰ Decision (B)051222-CDC-499.

⁸¹ Memorandum (Z)050817-CDC-457.

⁸² Advice AR140905-025, Part 3, point 2.1., of this report.

⁸³ Proposal (C)050120-CREG-388, see Part 1, point 2.5.2., of this report.

ments made by the Management Board to a certain extent. However, no remedies are proposed for the main shortcomings.

In legal terms, the Law of 1 June 2005 modifies Article 13 of the Electricity Act and states that the transmission network development plan will be drawn up by the transmission network operator in conjunction with the Directorate General for Energy and the Federal Planning Bureau, and submitted to CREG for an advice⁸⁴.

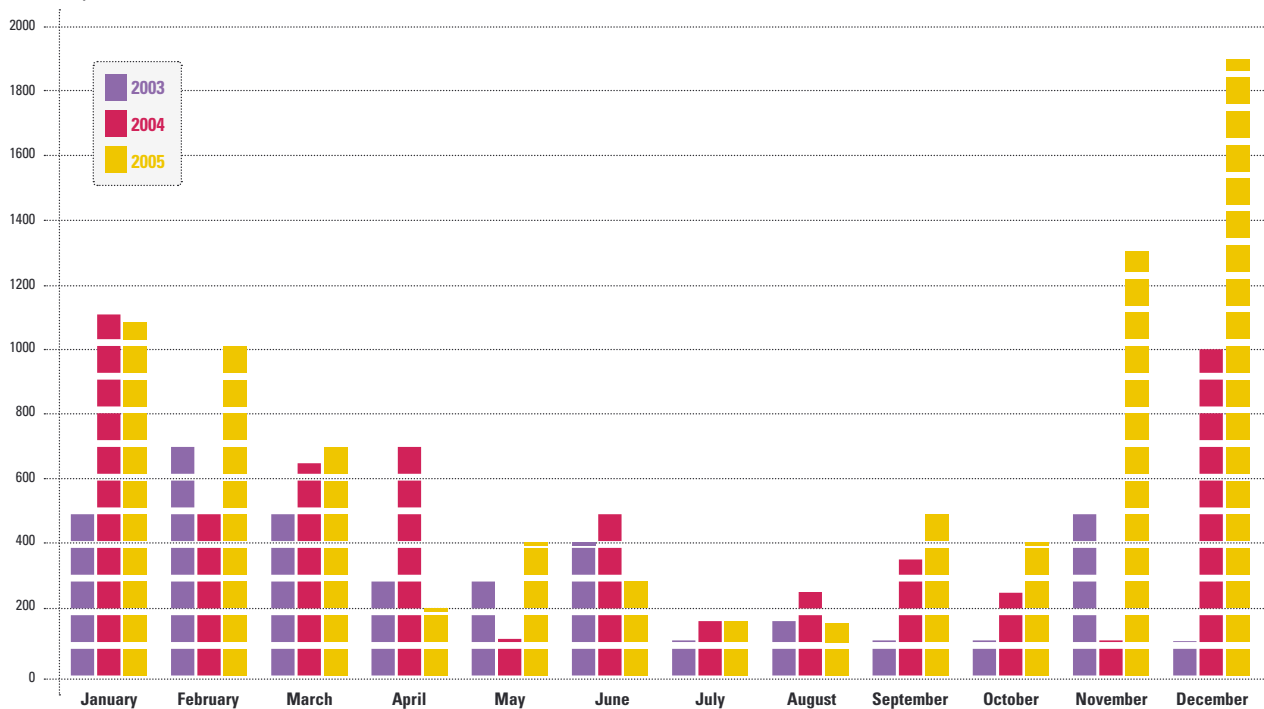
2.6.2.4. Managing available capacity at interconnections with other countries

Further to a ruling from the European Court of Justice⁸⁵, the Dutch network operator TenneT has decided no longer to allocate capacity as a priority to the historic contract between ELECTRICITÉ DE FRANCE (EDF) and NEDERLANDS ELEKTRICITEIT ADMINISTRATIEKANTOOR (NEA) as of September 2005. ELIA and RTE, the French network operator, consequently noted the *de facto* discontinuance of the priority granted to the relevant historic contract. The capacity from France to Belgium thereby released was transferred to the monthly capacity allocation. As regards the Belgian-Dutch border, the capacity released was transferred to the daily capacity allocation.

In December 2005, in anticipation of the final decision on approval, the Management Board consented⁸⁶ to the temporary introduction of a new mechanism for capacity allocation and congestion management at the French-Belgian border on the basis of auctions. Through this decision, the Management Board has also abolished the priority allocation of capacity to the historic contracts, that is the long-term contracts concluded before the first European Electricity Directive of 1996. This measure affects the contract concluded between EDF and NEA referred to above and the contract between EDF on the one hand and ELECTRABEL and SPE on the other relating to the import into Belgium of their share of the energy generated by the Chooz B nuclear power plant (in France). Moreover, the decision includes elements relating to the maximisation of the capacity to be allocated to the market, the transparency, the monitoring of the allocation and the limitation of the capacity that can be requested by a market party from France to Belgium.

The Management Board reached a similar decision⁸⁷ in December 2005 concerning the Belgian-Dutch border, which included, amongst other things, temporary authorisation to apply the existing auction mechanism and the abolition of the priority granted to the contract between EDF and NEA.

Figure 6: Evolution of the capacity allocated on a monthly basis (MW) at the French-Belgian border, from France to Belgium, in the period 2003-2005



Source: ELIA

⁸⁴ Belgian Gazette of 14 June 2005. On 31 December 2005, this amendment had not yet come into force.

⁸⁵ C.J. *Vereniging voor Energie, Milieu en Water*, Amsterdam Power Exchange Sportmarket B.V., N.V. Eneco vs *Directeur van de Dienst uitvoering en toezicht energie*, case C-17/03, 7 June 2005, *Rec.* 2005, p. 00.

⁸⁶ Decision (B)051201-CDC-494.

⁸⁷ Decision (B)051222-CDC-502.

Finally, on 7 December 2005, the Belgian, French and Dutch regulators published a roadmap concerning the integration of the electricity markets in the three countries and covering, amongst other things, the management of capacity between these three countries⁸⁸.

These events should contribute towards a significant improvement in the cross-border exchange conditions, an increase in the import capacity from France and the opening up of the Belgian electricity market.

Figure 6 above shows the clear increase, over the last few months of 2005, in the capacity allocated on a monthly basis as a result of the abolition of the priority granted to the historic contract between EDF and NEA (as of September) and the reinforcement of the interconnection (December).

2.6.2.5. Evolution of foreign trade

Net imports of electricity into Belgium amounted to almost 6.2 TWh in 2005⁸⁹, down around 1.6 TWh compared with 2004. This downward trend is the result of physical imports of 14.2 TWh, somewhat less than the figure recorded in 2004, and physical exports of 8.0 TWh, compared with just 6.8 TWh in 2004.

A substantial proportion of the energy flows observed comes from cross-border transit of electricity through the Belgian network. According to ELIA, physical transit volumes accounted for around 6.2 TWh in 2005⁹⁰. By way of comparison, in 2004 cross-border transits stood at almost 5.0 TWh. Owing to their arbitrary character as a result of loop flows, unannounced physical transit activities cause serious operating and security problems and hence limit the available capacity on the interconnections.

As regards the main extensions of the transmission network, in November 2005 ELIA brought the second circuit of the 380 kV connection between Mastaing (in France) and Avelgem into operation, increasing the interconnection capacity between France and Belgium by around 700 MW.

2.6.3. Transmission network tariffs for electricity

2.6.3.1. Tariff methodology

As regards access to networks, Belgian law provides for regulated access to the electricity transmission network. In this respect, the CREG has been authorised to approve the transmission network tariffs proposed by the transmis-

sion network operator. In accordance with the applicable approval procedure, transmission network tariffs are established using the cost plus method: provided the costs are real and reasonable (including in comparison with those of a similar company), the network operator can recoup all its operating costs and a fair profit margin as remuneration for the capital invested in the network through its transmission network tariffs. The reasonable nature of these costs and the fair nature of the profit margin are assessed by the Management Board on the basis of a twofold control:

(a) an ex-ante control on the basis of the budgeted costs

The transmission network operator has to submit its tariff proposal for the following operating year $t+1$ to the Management Board for approval before 30 September of the current year, t . The tariff approval procedure implies that this must be concluded before 31 December of year t . However, the Management Board can impose temporary tariffs for a renewable period of three months. At the same time, the Management Board submits a report to the Minister for Energy during the current year t on the tariffs that were applicable during the previous operating year.

(b) an ex-post control, on the basis of actual costs

The Management Board is responsible for establishing in the year t whether the tariffs applied during the year $t-1$ resulted in a bonus or a malus. The calculation method used by the Management Board to establish any bonus or malus is the same as that used to define any bonus or malus resulting from the application of the tariffs during the 2003 operating year. As regards the electricity sector, only the fraction of the positive difference between the approved budgeted operating costs and the approved actual operating costs, which is the result of active cost management, can give rise to a bonus. Half of this is deducted from the tariffs for the year following that in which it is established. If the differences between the budgeted costs and the actual costs do not give rise to a bonus in the sense outlined above, there will simply be an operating surplus or deficit which, as appropriate, will be settled in the tariffs of the year following that in which this was established.

Finally, the legal provisions approved in 2005 redefine the tariff methodology to be applied in future⁹¹.

⁸⁸ Part 1, point 2.4.2., of this report.

⁸⁹ Professional Federation of Electricity Generators and Distributors in Belgium, Statistics 2004, provisional data - January 2005.

⁹⁰ ETSO calculation method.

⁹¹ Part 1, point 2.6.3.5., of this report.

2.6.3.2. Tariffs for 2004

On 24 March 2005, the Management Board drew up a report on the transmission network tariffs applied during the 2004 operating year⁹². In terms of procedure, this report states that both the procedure defined by law and that developed by the regulator were correctly followed by the network operator and the regulator. In addition, the Management Board emphasised once again the desirability of tariffs covering several years, not only because of the heavy workload for the network operator and the regulator, but also to make it easier for market parties to adopt a long-term strategy. In terms of content, the Management Board noted that the network operator had not been able to respond adequately to the Board's requests for adaptation, with the result that the transmission network tariffs approved were provisional – applicable for three months at a time – and imposed. Finally, the Management Board's critical appraisal of the reasonable nature of the costs and the fair nature of the remuneration of the invested capital led once again in 2004 to a considerable reduction in costs for users. For representative, standard customers, this was estimated at between 32 and 37%, compared with the first nine months of 2002.

The Management Board also noted that the application of these temporary and imposed tariffs in 2004 had led to both an operating surplus and a bonus for ELIA. The Management Board considers the proportion of the difference between the approved budgeted operating costs and the approved actual operating costs of a given operating year resulting from active cost management by the network operator as a bonus. The proportion of this difference that does not result from active cost management is considered

an operating surplus or deficit. For the 2004 operating year, the Management Board noted a bonus for the transmission network operator that amounted to 0.89% of the turnover for the year 2004. Half of this bonus is being deducted from the tariffs for 2006. The Management Board also decided to use the sum of € 28,000,000 from the 2004 operating surplus to finance the transition as regards the mechanism used to collect the federal contribution⁹³. The balance of € 90,904,565.83 will be deducted from the costs of the following years as follows:

• during the 2006 operating year	€ 9,780,913.19
• during the 2007 operating year	€ 9,780,913.19
• during the 2008 operating year	€ 23,780,913.19
• during the 2009 operating year	€ 23,780,913.18
• during the 2016 operating year	€ 23,780,913.18

2.6.3.3. Tariffs for 2005

The tariffs set for the transmission of electricity are vitally important for the organisation of access to the transmission network and the smooth running of the electricity market. Imposing inadequate access tariffs may prove to be a source of unfair competition.

In 2004⁹⁴ the Management Board imposed temporary transmission network tariffs for a period of three months, beginning on 1 January 2005. Given the lack of new information provided by the transmission network operator, the Management Board decided to renew these temporary tariffs, for a further period of three months in each case, as of 1 April, 1 July and 1 October 2005 respectively.

Table 5: Evolution of costs for electricity transmission, excluding levies and VAT, for various voltage levels*

Period of use (h/year)	Uptake in networks from 380/220/150 kV		Uptake in networks from 70/36/30 kV		Uptake in networks from 70/36/30 kV		Uptake in medium-voltage networks	
	7000	6500	6000	5500	€/MWh	% in proportion to previous period	€/MWh	% in proportion to previous period
2002 January - September (1)	6.4014	9.0838	13.0100	15.7773				
2002 October - December and 2003 January - March	5.1503	6.7534	9.2888	11.532	-19.54%	-25.65%	-28.60%	-26.91%
2003 April - December	4.8239	6.3065	8.6259	10.9897	-6.34%	-6.62%	-7.14%	-4.70%
2004	4.4098	5.8862	8.2113	10.0685	-8.58%	-6.66%	-4.81%	-8.38%
2005	3.8417	5.1782	7.4714	8.7815	-12.88%	-12.03%	-9.01%	-12.75%
Overall tariff reduction 2005 since period (1)					-39.99%	-43.00%	-42.57%	-44.34%

* For each of the four voltage levels, account is taken of a representative period of use of the uptake for consumers connected directly to the transmission network who do not have local generation

Source: CREG

⁹² Report TE2004-1.

⁹³ See also Part 3, point 5.1., of this report.

⁹⁴ Annual Report 2004, Part 2, point 2.3.1.2.

Transmission network tariffs fell constantly between the first nine months of 2002 and 2005. The tariff reduction for this period varied between 39.99% and 44.34%. As regards 2004, the tariff reduction amounted to between 9.01% and 12.88%, depending on the customer profile in question. These tariff reductions result primarily from the checks carried out by the Management Board and the fall in long-term interest rate.

2.6.3.4. Tariffs for 2006

On 30 September 2005, within the legal deadline, ELIA submitted a tariff proposal with a budget for the 2006 operating year. This proposal included, amongst other things, an adjustment of the tariffs for uptake by customers who benefit from local generating facilities, which had already been previously approved by the Management Board.

The Management Board decided to reject the tariff proposal and set out the conditions to be fulfilled for this to be approved. As the adjusted tariff proposal submitted by ELIA did not meet these conditions adequately, chiefly as regards the calculation of the fair remuneration for the invested capital, the financial costs and the cost of certain support services, the Management Board decided to impose temporary transmission network tariffs for a three-month period as of 1 January 2006.

Compared with the tariffs level for the 2005 operating year, these temporary tariffs for 2006 include further falls in tariffs, ranging from 5.72 % to 11.49%, depending on the voltage level.

In its decision, the Management Board also expressed an opinion on the reasonable price of certain support services. As a result of this, ELIA informed possible suppliers of these services of this on the one hand, and informed the Minister for Energy on the other in the context of Article 4, §1, of the Royal Decree of 11 October 2002 concerning public service obligations on the electricity market. At the request of the Minister for Energy, the Management Board, after consultation with the transmission network operator, drew up a report⁹⁵ containing both the elements cited by ELIA as the reasons why support services cannot be supplied at a reasonable price during the 2006 operating year and its recommendations on this matter.

2.6.3.5. Amendments to the legal framework

The Law of 1 June 2005 substantially modifies the provisions on tariffs that have applied since 2002⁹⁶. The most

significant modifications as regards tariffs may be summarised as follows:

- the transmission network operator will have to submit a proposal for tariffs covering several years to CREG for approval on the basis of a total income, established for a regulatory period of four years – and not one year as has hitherto been the case – to determine the transmission network tariffs that will apply for a corresponding period. This total income covers the whole of the costs necessary for the fulfilment of the legal tasks by the network operator, the depreciations, the fair margin, the public service obligations and the levies.
- the network operator may, during the regulatory period, submit an updated tariff proposal for new services and/or the adjustment of existing services to CREG for approval, and/or a substantiated demand for a review of the rules on determining the total income if exceptional circumstances beyond the control of the network operator arise;
- the balance between the actual and estimated non-manageable costs and/or between the actual and estimated volumes of sales will be determined by the network operator and the breakdown of this will be established in the Council of Ministers.

The aforementioned Law of 1 June 2005 also states that the King may extend the scope of application of these modifications to include the tariffs for distribution networks, the local or regional transmission networks.

On 3 February 2005, the Management Board, at the request of the Minister for Energy, published an advice on the draft Royal Decree concerning certain evaluation rules that apply to the gas and electricity transmission and distribution companies⁹⁷. This draft shortens the depreciation period for the cables, lines and pipelines of the operators of electricity transmission and electricity distribution networks on the one hand and the gas transmission and gas distribution networks on the other.

On the basis of the survey of the legal and procedural aspects dealt with, the Management Board does not see any reason at all to justify the shortening of the depreciation periods provided for in the draft Royal Decree. In the view of the Management Board, the technical and economic factors, such as the technical useful life, the results of research carried out by experts, the self-financing possibilities and the access to capital markets do not justify such a shortening, either. The Management Board believes that the depreciation percentages, that determine the cost that may be calculated in the tariffs, form part of a greater

⁹⁵ Report (RA)051226-CDC-501.

⁹⁶ Belgian Gazette of 14 June 2005. On 31 December 2005 these amendments had not yet come into force.

⁹⁷ Advice (A)050203-CDC-389.

whole. For instance, longer depreciation periods have a positive impact on the value of the invested capital which forms the basis for the calculation of the fair remuneration. Moreover, the Management Board notes that using shorter depreciation periods could lead to an increase in tariffs of between 2 and 8%, which in turn would have an unfavourable impact on the competitive position of companies and the purchasing power of households, but *de facto* would also impede access to the transmission network for new market parties. The Management Board also points to the expected increase in the share price of the companies concerned, which would mean that new shareholders would have to pay a higher price. For these reasons, the Management Board therefore issued an unfavourable advice on the draft Royal Decree.

On 27 April 2005, the Council-General in turn published an advice in which they requested that the draft Royal Decree should not be promulgated⁹⁸. In the addendum of 4 May 2005⁹⁹ to the advice of 3 February 2005, the Management Board added a number of considerations and legal elements in support of its decision and that of the Council-General.

2.7. Distribution of electricity

2.7.1. Tariff-setting in the liberalised market

2.7.1.1. Tariff methodology

Access to the electricity distribution networks is regulated in accordance with the same tariff principles as those that apply for access to the electricity transmission network¹⁰⁰. The legal provisions approved in 2005 redefine the tariff methodology to be applied in future when setting tariffs for electricity distribution¹⁰¹.

2.7.1.2. Tariffs for 2004

The survey of the annual reports produced by distribution network operators concerning the 2004 operating year was supplemented by on-site checks of the accounts and book-keeping organisation of the distribution network operators. These checks were carried out by CREG staff.

As a result of this in-depth investigation into electricity distribution, the Management Board did not observe any bonus or malus, but only operating surpluses or deficits. As

a result, a total amount of € 127,221,716.19 was deducted from the tariffs for the year 2006.

With the exception of two distribution network operators who showed an operating deficit, all the others will see their tariffs for the 2006 operating year reduced by between € 0 and € 29.3 million.

On 30 March 2005, the Management Board published a report on the distribution network tariffs applied in the 2004 operating year¹⁰². This report provides an overview of the procedure that led to the approval of the tariffs applied by distribution network operators for the year 2004. It also sets out the points regarding which the Management Board had adjustments made to the tariff proposals, so that they fulfil the criteria laid down in the Electricity Act and the Royal Decree of 11 July 2002 more effectively. Finally, it combines all approved tariffs and sets out – on the basis of type customers – what the tariffs mean for the customers.

2.7.1.3. Tariffs for 2005

The Management Board renewed the temporary tariffs approved in December 2004 for the first quarter of the year 2005 for further three-monthly periods, as of 1 April, 1 July and 1 October 2005, respectively¹⁰³.

The tariffs for the year 2005 proved on average and for most of the distribution network operators to be considerably lower than those applied for the years 2003 and 2004.

This fall in tariffs was made possible, amongst other things, by the checks on costs carried out by the Management Board for each distribution network operator. As of the 2005 operating year, a benchmarking technique was also used to assess the reasonable nature of the costs cited by the distribution network operators in the light of their actual costs for the 2003 operating year on the one hand and on the basis of a comparative study on the efficiency of the distribution network operators, measured with the help of the Data Envelopment Analysis model¹⁰⁴ on the other. The factors that lay behind falling costs include, in particular, measures designed to save on ancillary costs, implemented on the initiative of the distribution network operators and followed up by the Management Board and the falling trend in the percentage of the average yield on linear bonds at ten years¹⁰⁵ (OLO percentage) that has a direct impact on the remuneration of invested capital.

⁹⁸ Advice CG150605-021, Part 3, point 2.1., of this report.

⁹⁹ CREG, Addendum of 4 May 2005 concerning the advice (A)050203-CDC-389.

¹⁰⁰ Part 1, point 2.6.3.1., of this report.

¹⁰¹ Part 1, point 2.7.1.5., of this report.

¹⁰² Report TE2004-2.

¹⁰³ See also Annual Report 2004, Part 2, point 2.3.2.2. For eleven distribution network operators, the examination of the tariff proposals for

2005 led to a decision to approve the tariffs for the year 2005 and for fifteen others to the imposition of temporary tariffs for a three-month period as of 1 January 2005.

¹⁰⁴ For further details on the implementation of benchmarking and the main results of this, see Annual Report 2004, Part 2, point 3.5.2.

¹⁰⁵ For comparison: the OLO percentage that CREG took account of in its calculations of the remuneration of invested capital amounted to 5.1120% for 2003 and 4.1683% for 2005.

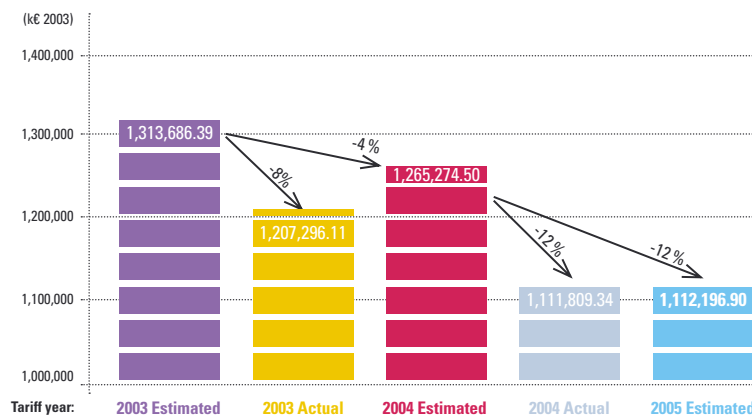
Table 6: Distribution network tariffs approved or set temporarily by the CREG in 2004 and 2005 (€/kWh)

	Household			Industrial			Industrial		
	low voltage			medium voltage			medium voltage		
	3,500 kWh/year of which 1,300			30,000 kWh/year; 30 kW			1,250,000 kWh/year; 500 kW		
	kWh/year during off-peak hours								
	2004 (1)	2005 (1)	Δ 2005/2004	2004 (1)	2005 (1)	Δ 2005/2004	2004 (1)	2005 (1)	Δ 2005/2004
AGEM*	0.0568	0.0446	-21.5%	0.0521	0.0480	-8.0%	0.0199	0.0184	-7.7%
AIEG*	0.0338	0.0451	33.7%	0.0494	0.0817	65.4%	0.0166	0.0213	28.4%
AIESH*	0.0730	0.0603	-17.4%	0.0741	0.0578	-21.9%	0.0319	0.0244	-23.4%
ALE*	0.0600	0.0572	-4.6%	0.0511	0.0616	20.5%	0.0219	0.0227	3.6%
DNB BA*	not applicable (2)			0.0869	0.0707	-18.7%	0.0306	0.0265	-13.5%
ETIZ	0.0602	(3)	(3)	0.0501	(3)	(3)	0.0124	(3)	(3)
EV/GHA*	0.0717	0.0868	21.0%	0.0689	0.0750	9.0%	0.0184	0.0194	5.2%
GASELWEST	0.0592	0.0469	-20.7%	0.0522	0.0416	-20.4%	0.0169	0.0143	-15.4%
GASELWEST Wallonie	0.0579	0.0485	-16.1%	0.0539	0.0435	-19.3%	0.0189	0.0162	-14.4%
IDEG	0.0528	0.0508	-3.7%	0.0764	0.0711	-6.9%	0.0289	0.0270	-6.6%
IEH	0.0465	0.0456	-2.0%	0.0656	0.0643	-2.0%	0.0248	0.0242	-2.2%
IMEA	0.0434	0.0340	-21.7%	0.0507	0.0307	-39.5%	0.0173	0.0115	-33.4%
IMEWO	0.0495	0.0360	-27.3%	0.0454	0.0365	-19.6%	0.0162	0.0131	-19.4%
INTERELECTRA*	0.0554	0.0535	-3.5%	0.0327	0.0346	5.7%	0.0125	0.0119	-5.1%
INTEREST	0.0603	0.0582	-3.4%	0.0699	0.0700	0.2%	0.0263	0.0263	-0.1%
INTERGEM	0.0485	0.0346	-28.7%	0.0457	0.0299	-34.7%	0.0158	0.0105	-33.4%
INTERLUX	0.0614	0.0619	0.8%	0.0865	0.0852	-1.5%	0.0343	0.0317	-7.6%
INTERMOSANE	0.0540	0.0533	-1.2%	0.0856	0.0780	-8.9%	0.0320	0.0294	-8.0%
INTERMOSANE Flandre	0.0528	0.0528	0.0%	0.0839	0.0839	0.0%	0.0302	0.0302	0.0%
IVEG*	0.0573	0.0498	-13.1%	0.0576	0.0320	-44.5%	0.0136	0.0112	-17.4%
IVEKA	0.0456	0.0387	-15.1%	0.0413	0.0325	-21.4%	0.0139	0.0113	-18.3%
IVERLEK	0.0514	0.0389	-24.2%	0.0468	0.0339	-27.6%	0.0164	0.0122	-25.4%
PBE*	0.0615	0.0569	-7.5%	0.0436	0.0343	-21.3%	0.0133	0.0145	9.0%
PBE Wallonie*	0.0522	0.0480	-8.1%	0.0388	0.0338	-12.9%	0.0123	0.0154	25.4%
SEDILEC	0.0468	0.0459	-2.1%	0.0711	0.0630	-11.3%	0.0261	0.0234	-10.3%
SIBELGA*	0.0432	0.0408	-5.6%	0.0637	0.0525	-17.5%	0.0247	0.0221	-10.3%
SIBELGAS NOORD	0.0498	0.0445	-10.7%	0.0441	0.0422	-4.4%	0.0162	0.0170	4.4%
SIMOGEL	0.0356	0.0345	-3.1%	0.0512	0.0522	2.1%	0.0184	0.0189	2.8%
WAVRE*	0.0338	0.0274	-18.7%	0.0494	0.0475	-3.8%	0.0166	0.0233	40.4%
WVEM (3)*	0.0561	0.0504	-10.3%	0.0226	0.0168	-26.0%	0.0136	0.0133	-2.4%
AVERAGE	0.0528	0.0481	-8.92%	0.0570	0.0519	-9.0%	0.0204	0.0194	-4.9%

(1) on the basis of the tariffs approved by the Management Board in December; (2) DNB BA does not serve any household customers; (3) ETIZ included in tariffs of WVEM as of 2005

* Tariffs approved by the Management Board

Source: CREG

Figure 7: Evolution in verifiable distribution costs between 2003 and 2005 (in constant k€ of 2003*)

* The costs were deflated on the basis of the consumer price index

Source: CREG

Figure 7 shows the evolution of the budgeted verifiable¹⁰⁶ costs approved by the Management Board (further to the *ex-ante* tariff checks) and the actual verifiable costs approved (further to the *ex-post* tariff checks). This graph shows that considerable cost savings were achieved between 2003 and 2005. For instance, during the period concerned, the budgeted, verifiable costs fell in real terms by almost 16%, which amounts to an average fall year on year of around 8%. Further to the examination of the tariff proposals for the 2006 operating year, the verifiable costs budgeted for this year are expected to amount to approximately € 1,034,000,000.00¹⁰⁷, which amounts to a further reduction of 7% compared with the costs budgeted for the year 2005.

2.7.1.4 Tariffs for 2006

During the third quarter of 2005, the Management Board examined the tariff proposals for the 2006 operating year, in accordance with the procedure applied for this process. This initially led to decisions refusing approval, indicating the points of the proposal that needed to be adjusted in order to obtain approval from the Management Board.

The adjusted tariff proposals which were subsequently submitted resulted in the imposition of temporary tariffs for a three-month period from 1 January 2006 for fourteen distribution network operators and in a decision to approve the tariffs for the year 2006 for the remaining twelve.

2.7.1.5. Amendments to legal framework

As regards the modifications made to the legal framework by the Law of 1 June 2005 and the advice from the Management Board regarding the draft Royal Decree concerning certain evaluation rules applicable to the gas and electricity transmission and distribution companies, please refer to Part 1, point 2.6.3.5., of this report.

2.7.2. Tariff-setting in captive market

2.7.2.1. Tariff methodology

The tariff methodology applicable to the captive market is based on the following tariff-setting principles:

(a) Covering the full costs

The tariffs are intended to cover the full costs related to the generation, transmission and distribution of electricity, that is the costs of the fossil and nuclear fuels used at the

centralised power plants (including those incurred by the recycling and management of radioactive waste), the operating costs (salaries and various materials) of the centralised power plants and of the distribution and transmission networks and the investments in the centralised generating plants and the distribution and transmission networks, as well as remuneration of the capital invested.

(b) Expression of cost structure

The costs for the generation, transmission and distribution of electricity that have to be recovered via the tariffs charged can be divided into three main categories, i.e. the costs independent of electricity consumption (such as measuring, meter reading and billing); the costs related to the maximum consumption rate that determines the capacity that the cable or line supplying the facility must have, as well as the scope of the networks and transformation units; and the costs relating to the energy consumed, including the costs of the fuel used. This three-part cost structure is reflected in the varying tariffs, bearing in mind the average consumption characteristics of the major consumer groups.

(c) Following cost trends

In order to ensure that the full costs are properly covered and that electricity prices are sensibly adjusted, the Management Board calculates on a monthly basis the value of the revision parameters N_c and N_e , representing, respectively, the development in costs of the fuels used in the centralised generating plants and the development of the other components of the cost price of electricity. These parameters, as well as the tariffs applied in the captive market, form the subject of monthly publications in the Belgian Gazette and on the CREG website.

2.7.2.2. Evolution of tariffs

In 2005, the price trend was characterised by the sharp rise in the cost of fossil fuels. This increase can be clearly seen in the rise in parameter N_c – although this is mitigated as over half the electricity is generated by nuclear power plants – and in the admittedly lower rise in the N_e parameter.

The tariff increases observed since 2003 have been gradually tempered by the tariff measures taken, including those introduced by the Ministerial Decrees of 13 May and 8 December 2004 amending the Ministerial Decree of 12 December 2001 establishing the maximum prices for the supply of electricity. Thanks to these measures, electricity prices have in most cases remained lower than those of 2001, despite inflation and the sharp rise in the price of fossil fuels.

¹⁰⁶ Verifiable costs are defined as the total costs less (1) taxes and levies (including a fee on the use of the public domain), (2) costs relating to public service obligations, (3) transmission costs (including, if appropriate, those of the distribution networks

upstream of the distribution network operators), (4) if appropriate, costs relating to the street lighting networks, (5) costs of network losses, (6) costs of measuring and counting activity.

¹⁰⁷ Amount expressed as constant price of 2003.

Table 7: Evolution of annual billing on the captive market between 2001 and 2005, excluding levies and VAT (€)

	Annual Nc	Annual Ne	Normal tariff 1,200 kWh	Two-hourly tariff 3,500 kWh, of which 1,300 at night	Two-hourly tariff 7,500 kWh, of which 2,500 at night
2001	1.1407	1.2761	201.00	451.83	886.51
2002	1.0790	1.3068	167.49	411.02	845.26
2003	1.1155	1.3280	167.23	413.18	849.70
2004	1.3261	1.3557	173.86	425.17	880.61
2005	1.4245	1.3919	179.73	434.60	906.04
Δ 2005/2004	7.4%	2.7%	3.4%	2.2%	2.9%

Source: CREG

2.8. Possibilities of appealing against decisions taken by CREG

The Minister for Energy has asked CREG to give an advice on the bill on the organisation of the possibilities for appealing against decisions taken by CREG. In fact, the legislator felt that there was a need to introduce an accelerated procedure against decisions taken by CREG along the same lines as that applied in the financial and telecommunications sectors.

The Management Board¹⁰⁸ feels that granting full jurisdiction to the Court of Appeal in Brussels may cause problems, given the constitutional principle of the separation of powers. In fact, the bill creates the impression that the Court of Appeal in Brussels will be able to take the place of CREG entirely, whereas in a similar ruling concerning telecommunications, the Court of Appeal in Brussels proved rather reticent about assuming this full jurisdiction.

Moreover, the Management Board emphasises that, on the basis of the provisions of Article 23, paragraph 2 of the Electricity Directive and of Article 25, paragraph 2 of the Gas Directive, the regulatory bodies are responsible for establishing or approving prior to their introduction at least the methods used to calculate or establish the conditions governing connection and access to national networks, including the transmission and distribution networks tariffs, and the conditions governing the provision of balancing services. The provision in the bill on the basis of which the Court of Appeal in Brussels has full jurisdiction as regards the grid code and tariffs therefore appears to be incompatible with the aforementioned articles in the directives. In addition, the Management Board referred to the possible contradiction between the provisions of the bill and the principle of equality on the one hand and the assumption of legality that applies to every administrative act on the other.

The Council-General shares the conclusions reached by the Management Board's study¹⁰⁹, but whereas the Management Board advocates the price-cap methodology to combat the risk of moral hazard as regards the network operators for electricity and natural gas, the Council-General does not wish to make any explicit choice of tariff methodology to combat this risk.

In the meantime, the Law of 20 July 2005 containing various provisions¹¹⁰ has been adopted and, thanks to a new Article 29*sexies* of the Electricity Act and a new Article 15/23 of the Gas Act, this offers the Council of Ministers the possibility of suspending decisions relating to tariffs by means of a substantiated decision discussed in the Council of Ministers. In its advice on this bill¹¹¹, the Council of State wondered whether such a form of compulsory supervision is compatible with the autonomy of the service in question. In the aforementioned study, the Management Board pointed out that this provision is contrary to the Electricity and Gas Directives, in that it removes the final decision on network tariffs from the competence of CREG.

Finally, the Law of 27 July 2005¹¹² added a new Chapter VI*bis* to the Electricity Act and a new Chapter IV*septies* to the Gas Act, introducing two specific appeals against certain decisions taken by CREG, on the one hand before the Court of Appeal in Brussels, sitting as in chambers and on the other before the Competition Council.

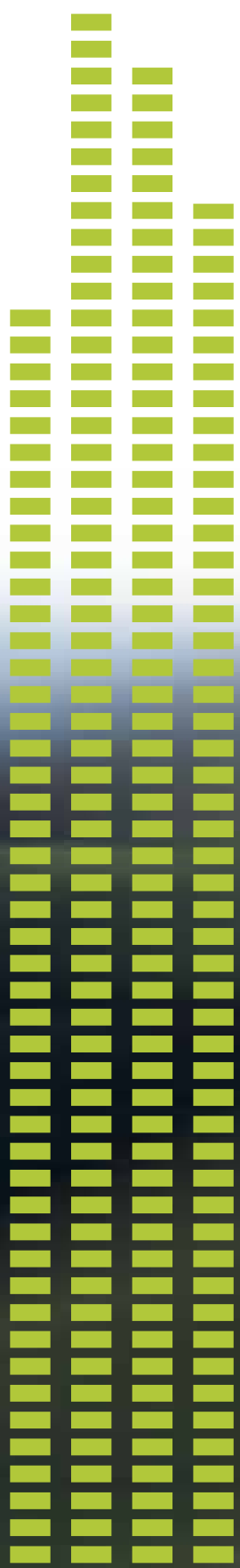
¹⁰⁸ Study (F)050608-CDC-416.

¹⁰⁹ Part 3, point 2.1., of this report.

¹¹⁰ Belgian Gazette of 29 July 2005. On 31 December 2005, these amendments had not yet come into force.

¹¹¹ Advice No 38.106/1 of 24 February 2005.

¹¹² Law of 27 July 2005 on the organisation of possibilities for appealing against the decisions of the Commission for Electricity and Gas Regulation (Belgian Gazette of 29 July 2005). On 31 December 2005, these amendments had not yet come into force.



2 Evolution of natural gas market

1. European natural gas market

1.1. Regulation 1775/2005

Regulation (EC) No. 1775/2005 of the European Parliament and of the Council of 28 September 2005 on conditions for access to the natural gas transmission networks¹¹³ provides a minimum guarantee of equal market access conditions in all member states as of 1 July 2006, responding to the call made by the European Gas Regulatory Forum to make the Guidelines for Good TPA Practice for Transmission System Operators (GGP2) compulsory¹¹⁴.

The regulation aims at setting non-discriminatory rules for access conditions to natural gas transmission systems taking into account the specificities of national and regional markets with a view to ensuring the proper functioning of the internal gas market.

This objective will include, amongst other things, the setting of harmonised principles concerning tariffs charged for access to the network or the methodologies underlying their calculation, the establishment of third-party access services, capacity allocation and congestion management, transparency requirements, balancing rules and imbalance charges and facilitating capacity trading.

1.2. Report from European Commission

For the report from the European Commission concerning the progress made in creating the internal gas and electricity market, please refer to Part 1, point 1.1. of this report.

1.3. European Gas Regulatory Forum

The European Gas Regulatory Forum, or Madrid Forum, is a platform for consultation on the creation of an internal natural gas market. It met twice in 2005, in March and in September, and was attended by representatives from the

candidate member states and from Norway, Switzerland and Russia, as well as by representatives of the European regulators, the member states, the European Commission and all parties in the gas market.

The gathering (extraordinary meeting) of 18 March 2005 focused on achieving an agreement on the Guidelines for Good TPA Practice for Storage System Operators (GGP-SSO), imposing minimum requirements as regards third-party access to storage facilities. It was agreed that these guidelines would be applicable as of 1 April 2005. The regulators were given the task of monitoring the application of these guidelines and reporting to the Forum. During the September Forum, a provisional report was presented and the final report was handed to the European Commission¹¹⁵.

During the Forum of 15 and 16 September 2005, one of the central points of discussion concerned the Common Business Practices (CBPs), which are rules that are recommended by the European Association for the Streamlining of Energy Exchange-gas (EASEE-gas) for the European gas industry. The Forum called upon members to apply these rules in the context of their areas of competence. The most important rule relates to the standard specifications for gas quality.

Since the most recent meeting, the Forum's attention has focused mainly on cross-border trade in gas, and in particular the technical and commercial impediments to the creation of an effective internal market for natural gas, such as the allocation and management of the interconnection capacity, the necessary investments and the interoperability of the networks.

¹¹³ Official Journal of the European Union No. L 289/1, 3 November 2005.

¹¹⁴ Annual Report 2004, Part 1, point 1.3.

¹¹⁵ ERGEG, Final 2005 Report on Monitoring the Implementation of the Guidelines for Good TPA practice for Storage System Operators.

2. Belgian natural gas market

2.1. Opening of Belgian natural gas market

The legislation on this matter was not amended in the course of 2005, which means that the evaluations of the opening of the Belgian natural gas market made as of 31 December 2004 still apply.

Only household customers in the Walloon and Brussels Capital Regions do not yet benefit from the status of eligible customers.

In the Walloon Region, household customers will be able to choose their supplier freely as of 1 January 2007¹¹⁶. Final customers supplied by a supplier of gas from renewable energy sources are already eligible¹¹⁷.

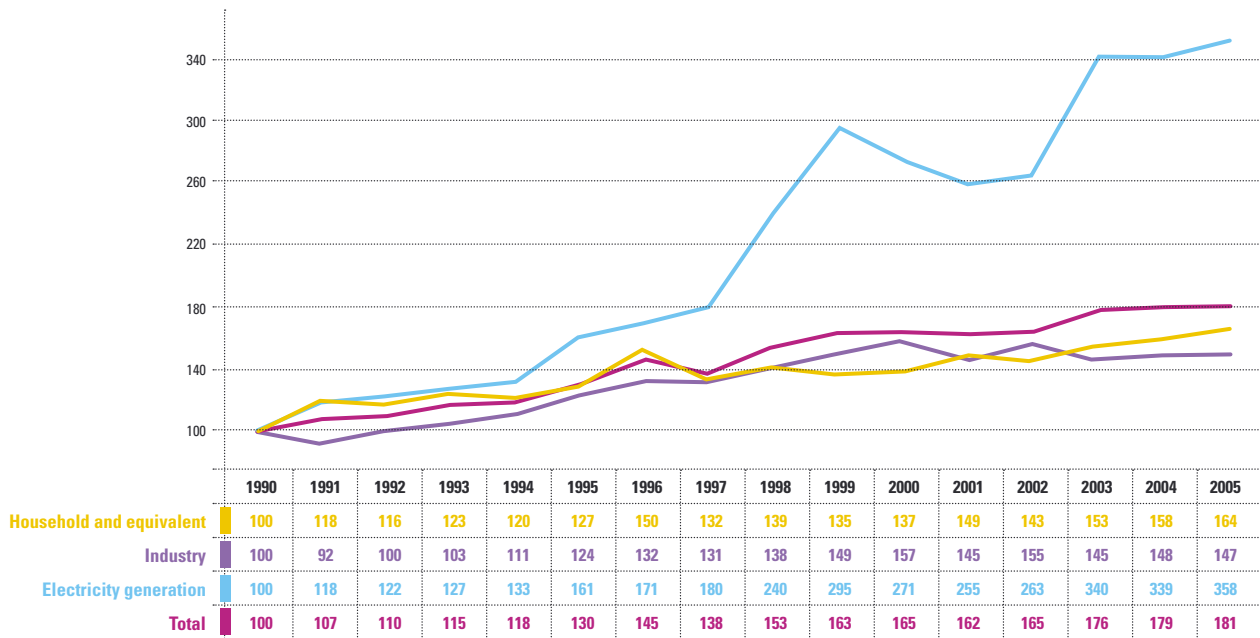
In the Brussels Capital Region, the Government still has to set the date on which household customers shall become eligible. This date shall not be earlier than 1 January 2007 or later than 1 July 2007¹¹⁸.

2.2. Demand for natural gas

2.2.1. Consumption trends

Gas consumption rose slightly in 2005 (+ 1.4%) going from 187,330 GWh in 2004 to 189,853 GWh in 2005. This increase may be attributed mainly to the use of gas to generate electricity (in the centralised power plants), which rose by 5.6%. This increase is due to a large extent to the commissioning of the Zandvliet Power CCGT power plant in Antwerp. Consumption by major industrial customers connected directly to the transmission network also rose slightly in 2005 (+ 2.2%). The slight drop in consumption on the distribution networks, from 88.33 TWh in 2004 to 86.96 TWh in 2005 (-1.5%) in fact conceals a noticeable increase in the number of connections. In 2005, the weather was around 4% milder than in 2004¹¹⁹, which should have resulted in a comparative fall in consumption. Figure 8 and Table 8 show the trend in consumption per sector. Figure 8 shows the consumption trends offsetting the impact of the weather, without making a distinction between customers supplied by the transmission network and those supplied by the distribution network.

Figure 8: Evolution of natural gas consumption per sector during the period 1990-2005 (index 1990 = 100)



Source: FIGAS

¹¹⁶ Article 2 of the Walloon Government decree of 21 April 2005 concerning the full opening up of the electricity market and the gas market (Belgian Gazette of 6 May 2005).

¹¹⁷ Article 27 of the Walloon Region decree of 19 December concerning the organisation of the regional gas market.

¹¹⁸ Article 11 of the ordinance of 1 April 2004 concerning the organisation of the gas market in the Brussels-Capital Region, concerning highway fees for gas and electricity and amending the ordinance of 19 July 2001 concerning the organisation of the electricity market in the Brussels-Capital Region.

¹¹⁹ The year 2005 comprised 2,233 degree days, compared with 2,323 degree days in 2004.

Table 8: Breakdown per sector of Belgian natural gas demand between 2001 and 2005 (in TWh)

Sectors	2001	2002	2003	2004	2005	Δ 2005/2004
Distribution	81.07	78.28	83.09	88.33	86.96	-1.5%
Industry (direct customers)	52.24	54.70	50.69	49.29	50.38	+2.2%
Electricity generation (centralised power plants)	37.53	40.89	51.10	49.71	52.51	+5.6%
Total	170.85	173.87	184.88	187.33	189.85	+1.4%

Source: CREG

2.2.2. Sales per sector and per customer segment

Low-cal gas accounted for 28% of consumption in 2005, compared with 29% in 2004. This relative fall was partly the result of a fall in the volume of Low-cal gas used by the public distribution sector, where a total of 1 TWh Low-cal gas was replaced by High-cal gas (for instance in Lommel on the PLIGAS network). This trend is in line with the policy of a gradual switch from the use of Low-cal gas to the use of High-cal gas which is to be continued in the coming years.

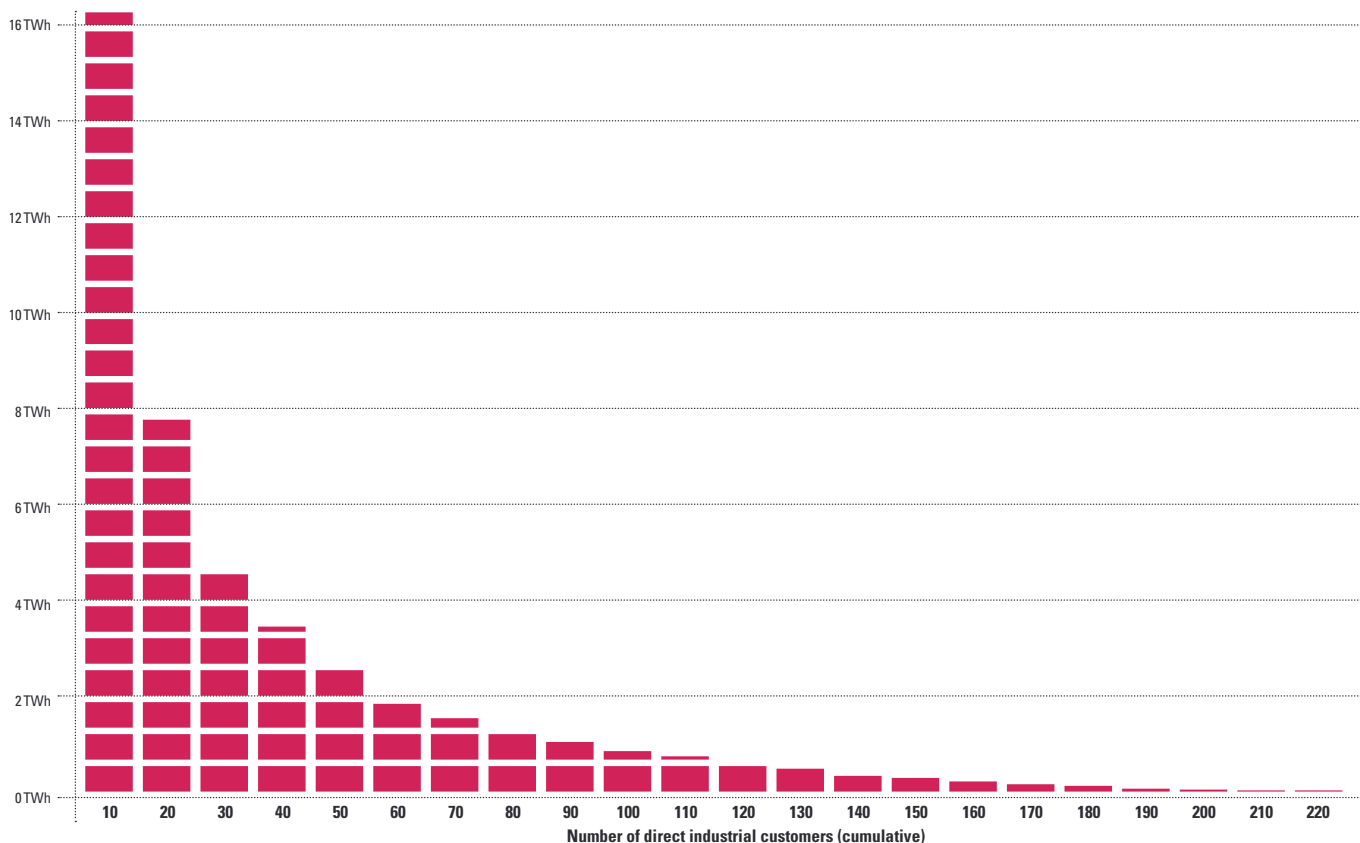
As can be seen from Figure 10, consumption is largely concentrated on a limited number of customers. If we look only at direct industrial customers (excluding the electricity power plants), we note that the ten largest consumption sites in 2005 accounted for over 22 TWh (invisible on the graph), which means that 45% of consumption was spread over 218 consumption sites.

Figure 9: Breakdown per sector of Belgian demand for High-cal gas and Low-cal gas in 2005 (in TWh).



Source: CREG

Figure 10: Consumption indicated per ten direct industrial customers in 2005, in decreasing order according to consumption (in TWh)



Source: CREG

2.3. Supply of natural gas

2.3.1. Supply companies

In 2005, CREG received six applications for a natural gas supply authorisation, three of which, relating to new authorisations, were positively assessed by the Management Board¹²⁰. The other three applications concerned one authorisation transfer and two authorisation retentions further to a modification in the share ownership. The Management Board issued a positive advice on two of these applications¹²¹, while the third, which concerned the retention of an authorisation, was still being processed on 31 December 2005.

In 2005, the Minister for Energy issued three new supply authorisations to EDF, EDF BELGIUM and ESSENT BELGIUM. In addition, the Minister consented to the transfer of the au-

thorisation held by RWE GAS VERKOOPMAATSCHAPPIJ to RWE ENERGY NEDERLAND. Twenty authorisation holders currently have the right to access the natural gas transmission network. However, only three of these actually operated in 2005. This is one fewer than in 2004, as BP BELGIUM did not supply any gas in 2005.

As can be seen from Table 9, the market share of DISTRIGAS continued to decline, albeit at a slower pace than in 2004 (- 2.7 percentage points in 2005 compared with - 4.2 in 2004). The slight drop by DISTRIGAS is primarily the result of the downward trend in its supplies to the distribution networks.

Its two competitors, GAZ de FRANCE NEGOCE and WINGAS, each gained almost two percentage points and therefore attained a market share of 10.4% and 4.2%, respectively. WINGAS progressed at the same pace as

Table 9: Natural gas supply companies in 2005

Company	Domestic market	Date of authorisation	Sales volume in 2005 (GWh)				Market share Belgium**
			Domestic market	Belgium*	Elsewhere	Total	
E.ON RUHRGAS A.G.	Germany	08.02.02	555.0	0	131.0	686.0	0
BP BELGIUM S.A.	Belgium	29.03.02	0	0	0	0	0
DISTRIGAZ S.A.	Belgium	17.04.02	162.2		129.1	291.3	85.4%
GAZ de FRANCE NEGOCE	France	03.05.02	448.1	19.6	Nd	467.7	10.4%
TOTAL GAS & POWER NORTH EUROPE S.A.	Belgium	03.05.02	0		N.a.	N.a.	0
WINGAS GmbH	Germany	02.09.02	132.4	7.9	66.7	207.0	4.2%
ESSENT ENERGY TRADING B.V.	The Netherlands	26.11.02	64.1	0	0.6	64.7	0
GASELYS SAS	France	24.03.03	0	0	0	0	0
LUMINUS S.A.	Belgium	28.03.03	0		0	0	0
NUON BELGIUM S.A.	Belgium	16.06.03	0		0	0	0
NUON ENERGY TRADE & WHOLESALE S.A.	The Netherlands	16.06.03	±116	0	0	±116	0
ELECTRABEL CUSTOMER SOLUTIONS S.A.	Belgium	18.09.03	0		0	0	0
ACCORD ENERGY Ltd.	United Kingdom	18.09.03	0	0	0	0	0
SPE S.A.	Belgium	18.09.03	0		0	0	0
RWE ENERGY NEDERLAND B.V.	The Netherlands	08.01.04	22.4	0	0	22.4	0
ELECTRABEL S.A.	Belgium	16.03.04	0		N.a.	0	0
ENI (UK) Ltd.	United Kingdom	07.07.04	N.a.	0	N.a.	N.a.	0
EDF S.A.	France	29.11.05	±6	0	0	±6	0
EDF BELGIUM S.A.	Belgium	29.11.05	0		0	0	0
ESSENT BELGIUM S.A.	Belgium	29.11.05	0		0	0	0

* Only concerns the transmission market: supplies to customers connected to the transmission network and injections into the distribution networks

** Concerns the respective market shares of the holders of a supply authorisation for access to the transmission network, on the basis of the figures in the "Belgium" column. These market shares are average values for the year 2005 and do not necessarily reflect the situation as at 31 December.

N.a.: not available

Source: CREG

¹²⁰ Advices (A)050714-CDC-449, (A)050811-CDC-451 and (A)050817-CDC-453.

¹²¹ Advices (A)050526-CDC-440 and (A)050215-CDC-500.

in 2004, while GAZ de FRANCE NEGOCE slowed slightly (+ 2.4 percentage points in 2005, compared with + 3.2 in 2004). The progress made by these two market players was partly to the detriment of BP BELGIUM, which disappeared from the list of active suppliers.

These figures refer exclusively to the transmission market and do not take account of the development of market shares in distribution. For separate statistics relating to supplies on the transmission and distribution market, please refer to the joint publication of the four energy regulators, available on the CREG website.

2.3.2. Price setting by default suppliers

In March 2005, the Management Board, on its own initiative, published two studies¹²² examining the differences between the prices applied by the two largest default suppliers, LUMINUS and ELECTRABEL CUSTOMER SOLUTIONS (hereinafter referred to as ECS) for their active customers and their standard customers in Flanders, Brussels and Wallonia. The Management Board observed that the prices applied by LUMINUS to standard customers did not appear to correspond to the underlying costs. LUMINUS was consequently asked to undertake a thorough review of its pricing policy relating to eligible customers or at least to provide more information on this matter. As regards ECS, the Management Board judged that the price differences observed between active customers and standard customers are justified.

In April 2005, LUMINUS provided the Management Board with information about the new prices that were to be applied as of May 2005 for household and small professional customers connected to the distribution network, as well as additional information about pricing in the business customer segment¹²³. As a result of this, the Management Board published another study¹²⁴ in June 2005 on the differences between the prices applied by LUMINUS in respect of its active and its standard customers, which also provided an overview of the full procedure and the main conclusions of this study since the start of 2004. The Management Board decided that the price differences analysed in this second study are permissible.

By analogy, also in June 2005, the Management Board issued a study¹²⁵ giving an overview of the full procedure and the most important conclusions of the survey carried out

for ESC since the start of 2004 as well as examining the extent to which the tariffs billed by ECS to standard customers since the beginning of 2005 differ from the prices that it invoices to its eligible customers who have expressly concluded a contract with it and whether any differences observed are admissible. The Management Board decided that the differences are justified.

2.3.3. Maximum prices

The actual net cost resulting from ensuring supplies to protected household customers by gas companies at maximum prices is financed by levies on prices. The Royal Decree of 27 January 2005¹²⁶ sets the amount of the fund intended to finance the actual cost further to the application of maximum prices for the supply of natural gas to the aforementioned customers at € 8.89 million for the year 2005.

As regards the memorandum from the Management Board on the social tariffs applicable in the electricity and gas sectors, please refer to Part 1, point 2.3.3., of this report.

As regards the maximum prices which distribution network operators have to apply for non-protected final customers whose supply contract has been terminated, the rules for establishing this are set out in the Ministerial Decree of 15 February 2005¹²⁷. In its advice of 3 June 2004 on the draft of this decree¹²⁸, the Management Board stated that the tariff should be at least the highest market price, so that final customers would not be encouraged not to pay their bills. The Management Board also advised that the distribution network operator should be able to record a positive margin on the sale of that natural gas. The Ministerial Decree of 15 February 2005, which tended rather to uphold the advice of the Council-General, stipulated that the price which the distribution network operator may charge customers whose supply contract has been terminated must be at least equal to the average of the most recent prices. The price consists of the sum of the Energy price, the Transmission tariff, the Distribution network tariff and the Margin. If the sum of the first three components falls below the average market price, this is increased by a margin so that it reaches at least the average market price. If the sum of the first three components is higher than the average market price, the margin is equal to zero.

¹²² Studies (F)050317-CDC-414 and 415.

¹²³ This segment concerns medium-sized to large enterprises that are connected to the distribution network.

¹²⁴ Study (F)050630-445.

¹²⁵ Study (F)050602-CDC-441.

¹²⁶ Belgian Gazette of 17 February 2005.

¹²⁷ Ministerial Decree of 15 February 2005 establishing maximum prices for the supply of gas by distribution companies to final customers whose supply contract has been terminated by their supplier and who are not considered household protected customers with a low income or in a vulnerable situation within the meaning of Article 15/10, par. 2 of the law of 12 April 1965 concerning the transmission of gaseous and other substances by means of pipelines (Belgian Gazette of 28 February 2005).

¹²⁸ Annual Report 2004, Part 1, point 2.7.3.

With the application of the Ministerial Decree referred to above, the Management Board also laid down the terms and procedures to be used to calculate the margin. The Management Board opted in favour of determining the margin for two types of customers and applying these margins to all similar customers¹²⁹. As the first type of customer, the Management Board chose a customer who consumes 2,000 kWh per year (cooking) and as the second a customer who consumes 22,000 kWh (heating). The first margin has to be applied to all customers within the 0 to 5,000 kWh range and the second margin to all customers in the 5,001 to 150,000 kWh range. Each distribution network operator has to calculate the average market price for each standard customer with the three largest suppliers twice a year, deduct the Energy price, the Transmission tariff and the Distribution network tariff and if there is a positive balance, consider this to be the margin that it should apply to the sale of gas to similar customers.

2.4. Liquidity on wholesale market

2.4.1. Interaction between Belgian market and gas transit market

The number of active suppliers in the Belgian natural gas wholesale market remained limited in 2005¹³⁰. Nevertheless, the Belgian market seems to attract a fair amount of interest, given the growing number of natural gas supply authorisation holders, of whom there were 20 on 31 December 2005.

The liquidity on the national market is closely linked to the gas transit market which is three times larger in terms of capacity reservation. There is therefore a need to reorganise the transit market by bringing the operating rules applied here into line with those that apply to internal transmission. CREG has little room for manoeuvre in this field. At the moment, access to transit capacity is not covered by the regulated framework of the tariffs and code of conduct. The quality differences between the gas used in Belgium and the transit gas also constitute an impediment for gas exchanges between these two markets.

The future adaptation of the code of conduct¹³¹ in accordance with the modified provisions of the Gas Act will also need to cover transit activities, in addition to other reforms that are necessary to promote liquidity on the market.

2.4.2. Liquidity at Zeebrugge hub

In 2005, the Management Board prepared a study on liquidity at the Zeebrugge hub, the findings and recommendations of which will be published in the course of 2006.

The European Regulators Group for Electricity and Gas (ERGEG)¹³² has also published a working document entitled "Roadmap for a competitive single gas market in Europe" with a view to public consultation. This proposes dividing Europe into regions within which the markets are on the way to integration and set up working groups which will initially be given the task of looking into the possibility of improving liquidity at the local hubs and increasing reciprocal trade between hubs. In this respect, Belgium is in a region that includes Norway, the Netherlands, Luxembourg, Germany and northern France.

2.4.3. Implementation of indicative plan for gas supplies 2004-2014

In its most recent indicative plan¹³³, CREG calls for additional investment in import capacity, including from the east, and flexibility to an extent that makes it possible to improve the liquidity and supply of the national market.

However, some investments have been delayed as they are still being assessed by the transmission network operator. Other investments are being held back by cumbersome planning authorisation procedures. The delay that has built up as regards investments is being felt on the market in a whole series of refusals due to congestion affecting the applications submitted by network users for additional capacity. To date, not one single network user has yet invoked the application of the anti-retention rules¹³⁴. CREG is following up these developments carefully and making recommendations to the network operator to remedy this capacity shortage.

In addition to the investment policy, the commercial policy of the transmission network operator is also decisive for the liquidity of the market. CREG advocates a differentiated range of transmission services, so that network users can select the transmission service most suited to their needs. This flexibility in the transmission capacity on offer contributes towards increasing the negotiability of the transmission capacity. This policy is reflected in the indicative transmission programme of FLUXYS.¹³⁵

¹²⁹ Decision (B)051124-CDC-490.

¹³⁰ Part 1, point 2.3., of this report.

¹³¹ Article 15/5undecies of the gas law, added by Article 24 of the law of 1 June 2005 (Belgian Gazette of 14 June 2005). See also Part 2, point 2.6.2.2., of this report.

¹³² Part 3, point 4.3., of this report

¹³³ Annual Report 2004, Part 1, point 3.3.

¹³⁴ Article 134 of the Royal Decree of 4 April 2003 concerning the code of conduct on access to the gas transmission networks.

¹³⁵ Part 2, point 2.6.4., of this report.

2.5. Natural gas supply

The share of natural gas in the Belgian energy balance sheet (visible gross consumption of primary energy) has fluctuated between 22.5% and 24.7% since 1999. However, this figure reached a peak in 2004, when it stood at 25.5% (source: Federal Ministry for the Economy). In 2004, natural gas consumption rose steadily despite a slight fall in total energy consumption. In 2005, consumption rose again, as indicated under point 2.2.1. above.

Belgium stands at the crossroads for transit between the United Kingdom, the Netherlands, Germany and France and benefits from the natural advantage of a comfortable breakdown of its supplies amongst a number of entry points, as indicated in Figure 11. However, a shift may be observed of a considerable proportion of the supply from 's Gravenvoeren to Eynatten, while the strategic importance of the Zeebrugge zone is again confirmed (34% of supplies in 2005 compared with 31% in 2004). Supplies of Low-cal gas fell slightly from 30% in 2004 to 29% in 2005 (this percentage is still slightly higher in proportion to the quality of Low-cal gas used (28%, see point 2.2.2. above) partly as a result of the quality blending undertaken as part of the network management).

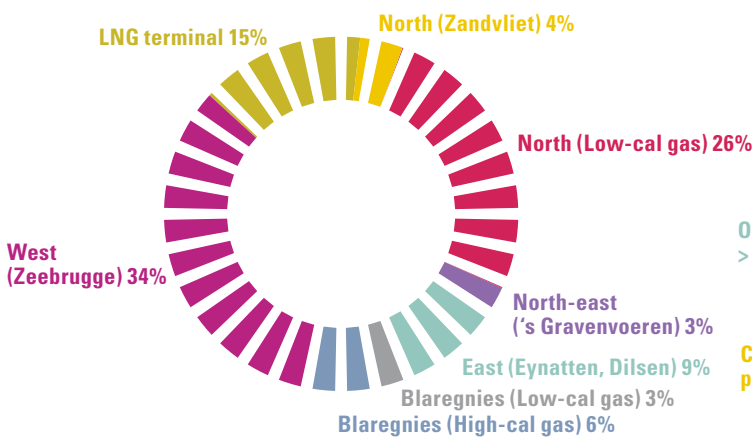
On the basis of the overall supply portfolios, as indicated by suppliers operating in Belgium and weighted according to their respective market share, it may be assumed that the gas used in Belgium still comes chiefly from the Netherlands (32.2%), Norway (30.7%) and Algeria (18.6%),

as well as a small proportion from Russia (4.9%) and the United Kingdom (2.1%) while the remainder (11.4%) comes from various sources or from gas hubs, for which the precise source cannot be determined. These figures are based on contractual data and do not mean that the gas actually comes from these various countries in the proportions indicated above.

As can be seen from Figure 12, the various suppliers operating in Belgium have a supply portfolio for the short and the long term, in accordance with their supply contracts. Contracts with producers concluded for less than five years mainly consist of long-term contracts that expire within five years. The considerable increase in the percentage of short-term contracts in comparison with the data provided in 2004 is a consequence of taking account of the overall portfolio of the suppliers operating in Belgium. As the supply portfolios are managed on an integrated basis, it is becoming ever riskier to link a specific supply contract to a specific delivery contract with any degree of precision.

In legal terms, Article 34 of the Law of 1 June 2005 stipulates that the Ministry for Energy, having consulted CREG, is to draw up a forward-looking study on the security of natural gas supplies instead of the indicative plan for natural gas supplies drawn up by CREG on the basis of Article 15/13 of the Gas Act. However, the implementation of Article 34 of the Law of 1 June 2005 has to be determined by the King in a decree drawn up after consultation with the Council of Ministers. As at 31 December 2005, no decree on this matter had yet been issued.

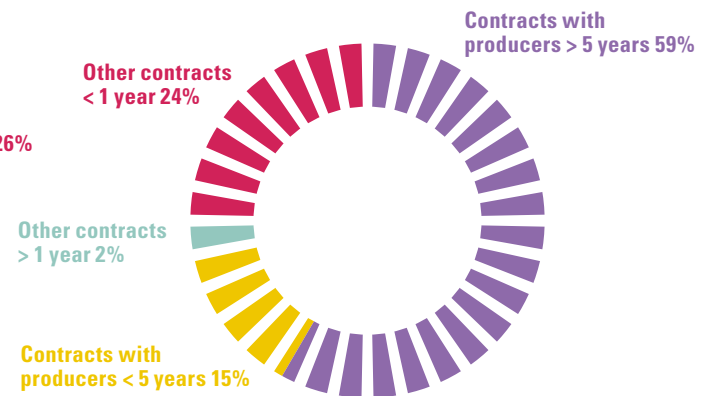
Figure 11: Breakdown of supply per entry zone in 2005*



* The Blaregnies entry points are used "in backhaul" to the actual flows, making use of the transit flows predominating at these points.

Source: CREG

Figure 12: Composition of the aggregated supply portfolio of the suppliers operating in Belgium in 2005



Source: CREG

2.6 Transmission of natural gas

2.6.1. Natural gas transmission authorisations

In accordance with the Royal Decree of 14 May 2002, in 2005 CREG received twenty-one requests for advice on the granting of a transmission authorisation, fifteen of which received a positive advice. The remaining six were still pending on 31 December 2005. In 2005 the Management Board also issued three positive advices relating to applications submitted in 2004.

2.6.2. Transmission network operation

2.6.2.1. Appointment of transmission network operators

The Law of 1 June 2005 introduces into Articles 8 to 8/6 inclusive¹³⁶ and Article 15/1 into the Gas Act a system whereby the management of the natural gas transmission network, the natural gas storage facility and the LNG facilities is ensured respectively and exclusively by the operator of the natural gas transmission network, the operator of the natural gas storage facilities and the operator of the LNG facility. Each operator can fulfil the function of combined network operator.

The criteria that apply for the temporary and thereafter the definitive appointment of operators are specified, as are the conditions and obligations to be fulfilled by the operators appointed. The conditions include, amongst other things, structural and organisational measures relating to the form of incorporation, the establishment of an audit committee, a remuneration committee and a corporate governance committee within the Board of Directors, the areas of competence of the Board of Directors, the areas of competence of the managing director or the chairman of the management board, and the management board and its independence if it belong to a vertically integrated company.

However, the on- and offshore facilities of the Interconnector Zeebrugge Terminal (IZT) and the Zeepipe Terminal (ZPT) located on Belgian territory, are not managed by the operators referred to in the Gas Act.

2.6.2.2. Code of conduct

The Law of 1 June 2005 introduces a new Article 15/5 *undecies* into the Gas Act, replacing the old Article 15/5, §3, of the same act and amending the following points:

- the new code of conduct henceforth applies to the operator of the natural gas transmission network, the operator of the natural gas storage facility and the operator of the LNG facility;
- the minimum requirements should now concern the legal – and no longer the administrative – and operation separation of the transmission and supply of natural gas within integrated operators;
- the basic principles relating to the rights and obligations of the natural gas transmission network, the operator of the natural gas storage facility and the operator of the LNG facility on the one hand and the users of the natural gas transmission network, the natural gas storage facility or the LNG facility on the other hand apply specifically to access to transmission capacity, congestion management and the publication of information;
- the new code of conduct must also include requirements relating to the independence of the operator's staff as regards the producers, distributors, suppliers and intermediaries, as well as measures that must be included in the compliance programme to guarantee that any discriminatory behaviour is excluded and to provide for adequate monitoring of compliance with this requirement. This compliance programme must list the specific obligations of staff aimed at achieving the objectives set; the person or body responsible for monitoring this programme should submit an annual report to CREG – which is to be published – setting out the measures taken.

2.6.3. Transmission tariffs

2.6.3.1 Tariff methodology

Access to the natural gas transmission networks is regulated in accordance with the same general tariff principles as those applicable to the electricity market¹³⁷, except as regards the determination of the bonus/malus. For this purpose, the result of the financial year is determined by the difference between real revenues and real costs. An operating surplus, or deficit, is recorded if the result is higher, or lower, than the fair profit margin, calculated in accordance with the guidelines of 18 June 2003¹³⁸. This operating surplus, or deficit, is cleared through the tariffs for the following year.

It should be noted here that the general principles relating to tariffs were redefined in 2005¹³⁹.

¹³⁶ On 31 December 2005, Articles 8 and 8/1 had not yet come into force.

¹³⁷ Part 1, point 2.6.3.1., of this report.

¹³⁸ Guidelines (R)030618-CDC-219 concerning the modest profit margin applicable to gas transmission companies and gas distribution companies operating on Belgian territory.

¹³⁹ Part 2, point 2.6.3.5., of this report.

2.6.3.2. Tariffs for 2004

On 24 March 2005, the Management Board submitted the report on the transmission tariffs for 2004¹⁴⁰ to the Minister for Energy and to FLUXYS and FLUXYS LNG. This report noted on the one hand that the gas transmission companies complied with the deadlines prescribed by law and on the other hand that the tariffs for the transmission and storage of natural gas, as well as for the use of the Zeebrugge LNG terminal were approved by the Management Board and applied throughout 2004. Generally speaking, the report stated that the transmission tariffs have fallen steadily since 2002, while at the same time there has been a constant improvement in the range of services provided to network users.

With a view to checking the tariffs for 2004, the Management Board examined the annual reports on the income statements for the transmission network for the 2004 operating year, which FLUXYS and FLUXYS LNG submitted on 14 February 2005. This examination consisted of an analysis of the differences between the accounts for 2004 and the budget submitted at the end of 2003. Three specific aspects were looked at more closely – the fees paid to lawyers and consultants in 2004 –, the financial return on the reserve for investments and the extension of the LNG terminal. As regards FLUXYS, in addition to these three elements, the replacement of the Zomergem-Zelzate pipeline, the services offered to shippers, the Huberator activity in FLUXYS, the gas measurements uncertainty and the specific differences between the budget and the actual situation as regards staff and investments were examined. The Management Board eventually decided to reject the bonus/malus proposal – as indicated in the report of 14 February 2005¹⁴¹. In its decision of 14 July 2005¹⁴², the Management Board finally decided on the bonus/malus on the basis of additional information provided by FLUXYS and FLUXYS LNG on 21 June 2005. Compared to the original proposal put forward by FLUXYS, the bonus in favour of future tariffs has been set respectively at € 8.7 million and € 0.2 million higher for transmission and storage activities. For FLUXYS LNG the eventual bonus stood at € 0.1 million more than the original proposal. The bonuses established by the Management Board will be deducted from the costs that will form the basis of the 2006 tariff proposal.

2.6.3.3. Tariffs for 2005

- Tariffs for transmission of natural gas

In 2005, the application of the “enhanced entry-exit” transmission systems introduced on 1 April 2004 was maintained¹⁴³. This system upholds the firm nature of the subscribed capacities when the network user nominates on his route. Nevertheless, network users are offered opportunities to nominate a different route, so that they can change entry point in order to be able to seize the opportunities offered by the liberalised market. The regulated tariffs for the year 2005, which apply to this system which offers more flexibility, are given in Table 10 hereafter.

Since 2002, the first year in which the transmission tariffs were approved by CREG, the capacity tariffs have fallen steadily, both for the high-pressure network and for the medium-pressure network. This drop in tariffs of almost 10% in three years, excluding inflation, may be explained, amongst other things, by the rejection of unreasonable costs by CREG, better budgeting of costs and reserved capacity by FLUXYS, the allocation of the operating bonus to tariffs for the following operating year, falling long-term interest rates which bring down the profit margin allocated to FLUXYS and the annual rise in reserved capacity. These tariff reductions have occurred in a context in which FLUXYS is working on constantly improving the range of services on offer (as can be seen in the indicative transport programme¹⁴⁴), but also in the context in which the investments requested in the indicative plan for provision of natural gas¹⁴⁵ have built up considerable delays.

Finally, a comparative study of transmission tariffs among western European gas transmission companies¹⁴⁶ shows that the transmission tariffs charged by FLUXYS are amongst the most competitive in the geographic zone in question. This observation is in line with that made by CREG in the context of the tariff comparison carried out in 2002¹⁴⁷.

¹⁴⁰ Report TG2004.

¹⁴¹ Decisions (B)050602-CDC-436 and 437.

¹⁴² Decisions (B)050714-CDC-436/1 and 437/1.

¹⁴³ For a detailed description of the entry-exit system, see Annual Report 2004, Part 1, point 3.5.1.1.

¹⁴⁴ Part 2, point 2.6.4., of this report.

¹⁴⁵ Part 2, point 2.4.3., of this report.

¹⁴⁶ Arthur D. Little, West European gas transmission tariff comparisons, report to Gastransportservices, May 2005.

¹⁴⁷ Annual report 2002, Part 2, point 3.6.2.

Table 10: Tariffs for the transmission of natural gas destined for the national market in 2005, excluding levies and VAT

	TRANSMISSION	TARIFFS 2005	
		Entry	Exit
Entry			
	Firm capacity	7.8 €/m ³ (n)/h/year	
	Conditional capacity	7.1 €/m ³ (n)/h/year	
	Interruptible capacity*	4.7 €/m ³ (n)/h/year	
Exit			
HP			
	Firm SLP capacity		22.3 €/m ³ (n)/h/year
	Firm non-SLP capacity		22.3 €/m ³ (n)/h/year
	Injection capacity Loenhout (annual)		17.6 €/m ³ (n)/h/year
	Interruptible capacity		13.4 €/m ³ (n)/h/year
	NDM capacity*		27.5 €/m ³ (n)/h/year
MP			
	Firm SLP capacity		10.5 €/m ³ (n)/h/year
	Firm non-SLP capacity		10.5 €/m ³ (n)/h/year
	Interruptible capacity		6.3 €/m ³ (n)/h/year
Flexibility service			
<i>Rate flexibility</i>			
	Additional RF		12.4 €/m ³ (n)/h/year
<i>CIT</i>			
	Additional CIT SLP		2.3 €/m ³ (n)/year
	Additional CIT non-SLP		2.3 €/m ³ (n)/year
<i>DIT</i>			
	Additional DIT		5.1 €/m ³ (n)/year
Odourisation			
	Variable		0.68 €/1000 m ³ (n)
Dedicated PRS			7.2 €/m ³ (n)/h/year
Conversion of High-cal gas into Low-cal gas			
	Firm		11.6 €/m ³ (n)/h/year
	Variable		17.4 €/1000 m ³ (n)
	Additional start-up		12,000 €/start-up
	Extension of working period in March		47,300 €/year
Connection			2,000 €/connection
Disconnection			2,000 €/disconnection
Suppression of capacity			5,000 €/suppression

Seasonal tariff
(capacity element)

= annual tariff of the capacity considered multiplied by a monthly coefficient (see table below).

January	February	March	April	May	June
35 %	35 %	20 %	15 %	9 %	9 %
July	August	September	October	November	December
9 %	9 %	10 %	10 %	20 %	30 %

Short-term tariff
(capacity element)

= (for a standard contract of n days) annual tariff of the capacity considered multiplied by the seasonal coefficient of the month considered (see table above), divided by 30, multiplied by the maximum (n,7) and multiplied by 120%

+ commodity fee 0.20%

*These services were introduced as of 1 April 2005.

Source: CREG

Table 11: Evolution of transmission tariffs between 2002 and 2005

In €/m ³ /h/year	Tariffs	Tariffs	Δ 2003/2002	Tariffs	Δ 2004/2003	Tariffs	Δ 2005/2004	Δ 2005/2002
	2002	2003		2004		2005		
High pressure (HP)								
Firm capacity	33.4	31.4	-6.0%	30.5	-2.9%	30.1	-1.3%	-9.9%
Firm SLP capacity	33.4	31.4	-6.0%	32.4	3.2%	30.1	-7.1%	-9.9%
Medium pressure (MP)								
Firm capacity	11.7	10.7	-8.5%	10.6	-0.9%	10.5	-0.9%	-10.3%
Entry								
Fixed capacity (HP)				8.0	-	7.8	-2.5%	
Exit								
Firm capacity (HP)				22.5	-	22.3	-0.9%	
Firm SLP capacity (HP)				24.4	-	22.3	-8.6%	
Firm capacity (MP)				10.6	-	10.5	-0.9%	
Firm SLP capacity (MP)				10.6	-	10.5	-0.9%	

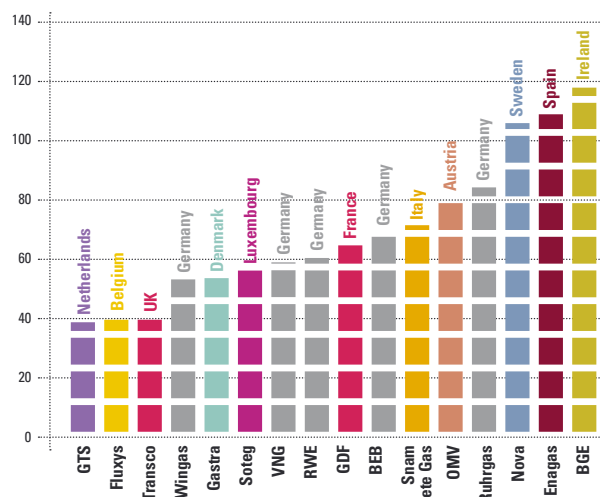
Source: CREG

- Natural gas storage tariffs

The FLUXYS storage services include filling the storage facility with natural gas, maintaining the volume of natural gas stored and reinjecting this into the transmission network from the two storage facilities currently available, that is the storage facility in the aquifer layers in Loenhout and the Peak-Shaving LNG storage facility in Dudzele.

Between 2004 and 2005, the storage tariffs in Loenhout and Dudzele fell by 0.9% and 6.3%, respectively. This fall may be attributed primarily to the reduction in long-term interest rates, which caused the profit margin to fall.

Figure 13: Comparison of average transmission tariffs for western European countries



Source: Arthur D. Little, West European gas transmission tariff comparisons, May 2005

Table 12: Natural gas storage tariffs in 2004 and 2005, excluding levies and VAT

		Tariffs 2004	Tariffs 2005	Δ 2005/2004
Loenhout				
Standard unit	€/standard unit	108.7	107.7	-0.9%
Injection capacity	€/m ³ (n)/h/year	Services not offered in 2004	33.5	n.a.
Storage volume	€/m ³ (n)/year		0.017	n.a.
Emission capacity	€/m ³ (n)/h/year		19.5	n.a.
Dudzele				
Standard unit	€/standard unit	28.5	26.7	-6.3%
Gas in kind	1.5%*			

* To cover its natural gas consumption to operate the Loenhout storage facility and the Dudzele Peak-Shaving facility, FLUXYS takes 1.5% of the quantity of gas injected (in Loenhout) or emitted (in Dudzele) by the user of the storage facility.

Source: CREG

- LNG terminalling tariffs

The LNG terminal in Zeebrugge, which is operated by FLUXYS LNG, handles receiving and unloading a LNG ship, the LNG buffer storage and the injection of LNG into the transmission network after regasification. In addition to these standard services, flexibility storage and interruptible emission capacity services are also available.

Table 13: LNG terminalling tariffs in 2004 and 2005, excluding levies and VAT

		Tariffs 2004	Tariffs 2005	Δ 2005/2004
Reception	€/cargo	223,310	205,407	-8.0%
Basic storage	€/day	31,928	31,396	-1.7%
Flexibility storage	€/m ³ GNL/day	0.22	0.22	0.0%
Firm emission	€/(m ³ (n)/h)/year	20.72	19.33	-6.7%
Interruptible emission	€/(m ³ (n)/h)/year	12.43	11.6	-6.7%
<i>Gas in kind</i>	1.3%*			

* To cover its natural gas consumption for its terminalling activity, FLUXYS LNG takes 1.3% of the quantity of gas actually emitted.

Source: CREG

Between 2004 and 2005 CREG observed that these tariffs were falling, mainly as a result of the reduction in long-term interest rates, which caused the profit margin to fall.

The long-term capacities are currently fully reserved until 1 October 2006. The slots¹⁴⁸ that fall vacant in the unloading schedule for the current contract can be subscribed for short-term loadings or spot cargos.

2.6.3.4. Tariffs for 2006

FLUXYS and FLUXYS LNG submitted a tariff proposal with a budget for the 2006 operating year on 30 September 2005 that is within the deadline required by law. On 17 November 2005, the Management Board decided to reject both proposals, partly because of the higher return (WACC) that was inadequately justified and the level and allocation formula of certain cost items. The subsequent revised tariff proposals were in line with the conditions that the Management Board had put forward, and so on 15 December 2005 the Board decided to approve the tariffs of both companies. Moreover, the decisions in question also include a working programme for bilateral meetings in the first half of 2006 in order to deal with the points noted by the Management Board and to be worked out in greater detail in the context of the approval procedure for the 2006 tariffs.

2.6.3.5. Amendments to legal framework

The Law of 1 June 2005¹⁴⁹ introduces substantial amendments to the provisions on tariffs in the Gas Act that had been applicable since the regulated tariffs came into force in 2002. The main amendments concerning tariffs can be summarised as follows:

- the operator of the natural gas transmission network, the natural gas storage facility and the LNG facility¹⁵⁰ will have to submit a proposal to CREG for the total income to be established for a regulatory period of four years – and no longer one year – for approval, in order to draw up the tariffs for the transmission and storage of natural gas and for the use of the LNG facility;

- the respective income covers – for the regulatory period of four years – each individually: the actual costs, a fair moderate margin, depreciation, public service obligations, levies, costs and remuneration related to the ownership and/or operation of the gas facilities;
- the network operator may, during the regulatory period, submit an updated tariff proposal for new services and/or adaptations to existing services to CREG for approval and/or, should exceptional circumstances arise that are beyond the control of the operator, a substantiated request for a review of the rules governing the total income;
- the transit tariffs – which may benefit from deviations from certain principles applicable to the transmission tariffs – will be the subject of a specific request for approval by CREG;
- the balance between the actual and the estimated non-manageable costs and/or between the actual and estimated sales volumes will be defined by the network operators and the allocation of the differences will be established in the Council of Ministers;
- the new large-scale natural gas facilities (interconnections with neighbouring countries, LNG facilities and storage facilities) may benefit from a special tariff system, provided that an exemption is granted by the King once CREG has been consulted.

¹⁴⁸ Deadline for use of the terminal which, for a category 125,000 m³ LNG tanker, corresponds to the unloading and storage of LNG for six days and the regasification during this period.

¹⁴⁹ Belgian Gazette of 14 June 2005. On 31 December 2005, most of these amendments had not yet come into force.

¹⁵⁰ Part 2, point 2.6.1., of this report

The aforementioned Law of 1 June 2005 also states that the King may extend the scope of application of these amendments to include the tariffs applicable for distribution networks.

As regards the advice on the draft Royal Decree concerning certain valuation rules that are applicable to gas and electricity transmission and distribution companies, please refer to Part 1, point 2.6.3.5., of this report.

2.6.4. Indicative transport programme

As a result of the approval of the main terms and conditions of FLUXYS LNG on 17 June 2004 and those of FLUXYS on 20 December 2004¹⁵¹, these companies were obliged to submit their proposals for indicative transport programme to CREG for approval within two months of this approval. The indicative¹⁵² transport programme, which is drawn up for a period of at least two years, constitutes a sort of catalogue of the products and services offered by the transmission company and has to be systematically adapted to developments in this respect.

On 24 February 2005, FLUXYS submitted its proposal for an indicative transport programme for 2005 and 2006. In this context, CREG organised a public consultation process via its website and by sending out a questionnaire to the market parties and organising a shippers' day and bilateral meetings. This public consultation process also gave CREG an opportunity to sound out the market as regards the transit services and any development in new transmission services that FLUXYS did not include in its proposal. This consultation process revealed that the market feels that the transmission services provided by FLUXYS are developing in the right direction, but still pose certain problems for potential newcomers wishing to penetrate the Belgian market. The following were among the impediments mentioned as regards the transmission services offered by FLUXYS: difficult access to storage, the balancing system and the flexibility services, the lack of transparency in the primary and secondary capacity markets, the lack of available capacity in the primary market and the matching rule¹⁵³. The Management Board rejected the proposal¹⁵⁴, partly because it was incomplete and because the description of some transmission services hampered access to the Belgian market for newcomers. The adapted proposal for the indicative transport programme submitted by FLUXYS on 30 September 2005 was also rejected by the Management Board¹⁵⁵ partly because it contained a number of provisions that were contrary to the code of conduct and

the main conditions for access of FLUXYS. The third proposal, which was submitted on 14 December 2005, was finally approved by the Management Board, which noted real progress¹⁵⁶ as regards the range of transmission services offered by FLUXYS for the year 2006, although it did point out that further significant changes would be necessary as of 2007. One example of this progress was the matching rules referred to above.

The first proposal for an indicative transport programme for 2005 and 2006 submitted by FLUXYS LNG on 30 August 2004 was rejected by the Management Board owing to its incompatibility with the code of conduct and the main conditions for access to the terminal¹⁵⁷. The second proposal, submitted on 14 February 2005, was the subject of a public consultation process organised by CREG via its website and by means of a shippers' day and bilateral meetings. On the basis of this consultation and as a result of two requests for further information which CREG sent to FLUXYS LNG, the Management Board also rejected the second and third proposals¹⁵⁸. One of the main differences of opinion between CREG and the transmission company concerns the application of the main conditions for access, specifically the calculation of the annual maximum number of LNG ships that can be unloaded into the Zeebrugge terminal, as indicated by FLUXYS LNG in its proposal.

2.6.5. Network code

FLUXYS and FLUXYS LNG were obliged to submit their network code proposals to CREG for approval within four months of the approval of their respective main conditions. The network code is a standardised series of provisions and rules relating to access to and use of the transmission network enabling the computerisation of requests processing.

FLUXYS submitted its first network code proposal on 27 April 2005 (transmission and storage at Loenhout) and on 21 June 2005 (storage at Dudzele). Having submitted this proposal for consultation¹⁵⁹, the Management Board rejected it¹⁶⁰, partly because it was incomplete, contained a number of provisions that were contrary to the code of conduct and the main conditions, and because some of the proposed rules made it more difficult for the market to operate. In accordance with the deadline set in the code of conduct, FLUXYS had to submit a revised network code proposal by 10 January 2006.

For its part, FLUXYS LNG submitted an initial network code (or terminalling code) proposal on 14 February 2005. The

¹⁵¹ Annual Report 2004, Part 1, points 2.4.1. and 2.4.2.

¹⁵² The indicative nature of this document relates to the volume of services offered and not to the determination of their content.

¹⁵³ For a detailed description of the results of this consultation, see the CREG consultation report on the working of the Belgian natural gas market, available on www.creg.be

¹⁵⁴ Decision (B)050817-CDC-454.

¹⁵⁵ Decision (B)051117-CDC-454/2.

¹⁵⁶ Decision (B)051117-CDC-454/3.

¹⁵⁷ Decision (B)050113-CDC-379/1.

¹⁵⁸ Decisions (B)050707-CDC-379-/2 and (B)0501027-CDC-379/3.

¹⁵⁹ Point 2.6.4. above.

¹⁶⁰ Decision (B)0501020-CDC481.

failure to meet the deadlines for the submission of these proposals required by law gave rise to a procedure where by CREG sent formal notice of default to the transmission company. However, the Management Board did not consider it advisable to impose an administrative fine upon FLUXYS LNG¹⁶¹. Having submitted this initial proposal to consultation¹⁶², the Management Board rejected it¹⁶³, partly because the content was inappropriate and incomplete in places, and partly due to certain errors, inconsistencies and lack of clarity, and incompatibility with the main conditions for access and with the code of conduct. For similar reasons, the Management Board also decided to reject the adapted network code proposal¹⁶⁴ submitted by FLUXYS LNG on 26 September 2005 and to impose a temporary network code for a renewable six-month period.

2.7. Natural gas distribution

2.7.1. Tariff-setting in liberalised market

2.7.1.1. Tariff methodology

Access to the natural gas distribution networks is governed by the same general principles relating to tariffs as those applicable to access to the electricity distribution network, except as regards the determination of the bonus/malus¹⁶⁵. The legal provisions approved in 2005 also redefine the tariff methodology that will have to be applied in future when setting tariffs for gas distribution¹⁶⁶.

2.7.1.2. Tariffs for 2004

At the end of 2004, the Management Board approved the analytical accounting plan submitted by eight distribution network operators¹⁶⁷ and invited the other eleven operators to adapt certain points in their respective accounting plans¹⁶⁸. In the first quarter of 2005, the Management Board approved the accounting plans concerned. These plans are intended to enable an easy and verifiable conversion to the reporting model drawn up by CREG.

As with the report on transmission tariffs¹⁶⁹, on 24 March 2005, the Management Board submitted the report on the natural gas distribution network tariffs applied during the 2004 operating year¹⁷⁰ to the Minister for Energy and to the relevant distribution network operators. The report points out that the legal deadlines in the procedure for esta-

blishing distribution network tariffs were met. It also states that in 2004 temporary tariffs were imposed on all mixed distribution network operators, while the tariffs of all pure distribution network operators were approved and applied throughout the year 2004. In this report, the Management Board confirms that it will continue to assess the reasonable nature of the costs of the distribution network operators, amongst other things by comparing them with corresponding, comparable costs of similar companies, in order to encourage operators to achieve better cost control.

The examination of the annual reports from the distribution network operators on the operating results for the natural gas distribution network in 2004 was supplemented by on-site checks of the accounts and accounting organisation of the distribution network operators. These checks were carried out by CREG staff. As a result of this thorough investigation, the Management Board noted that the tariffs applied for all distribution network operators together had resulted in an operating surplus of 7.7% above the income needed to cover the actual costs and the fair profit margin to remunerate the invested capital. As a result, a total amount of € 38.3 million was deducted from the tariffs for the year 2006. With the exception of five distribution network operators who recorded an operating deficit, all the others will see their budgets, which serve as a basis for the tariffs for the 2006 operating year, reduced by between € 0.6 million and € 8 million.

2.7.1.3. Tariffs for 2005

As indicated in 2004¹⁷¹, the Management Board imposed temporary tariffs on the mixed distribution network operators in Flanders and Wallonia for a renewable three-month period effective as of 1 January 2005.

For five Flemish distribution network operators, which confirmed the modification of the municipal charges on work carried out on utilities in the municipal public domain in their information dossier and demonstrated the legal basis for this, the Management Board accepted the modification and approved new temporary tariffs for the period from 1 April to 30 June 2005 inclusive. For the remaining two Flemish and for the Walloon operators, the Management Board extended the tariffs imposed for the first quarter. For the period from 1 July to 30 September 2005 and from 1 October to 31 December 2005 inclusive, the Management Board renewed the tariffs of all the distribution network operators that had temporary tariffs.

¹⁶¹ Decision (B)050414-CDC-417.

¹⁶² Point 2.6.4. above.

¹⁶³ Decision (B)050707-CDC-448.

¹⁶⁴ Decision (B)051208-CDC-448/1.

¹⁶⁵ Part 1, point 2.7.1.1. and Part 2, point 2.6.3.1., of this report.

¹⁶⁶ Part 2, point 2.7.1.5., of this report.

¹⁶⁷ Annual Report 2004, Part 1, point 2.3.2.1.

¹⁶⁸ Annual Report 2004, Part 1, point 2.3.2.4.

¹⁶⁹ Part 2, point 2.6.3.2., of this report.

¹⁷⁰ Report TG 2004.

¹⁷¹ Annual Report 2004, Part 1, point 2.3.2.3.

Table 14: Distribution network tariffs approved or established temporarily by the CREG in 2004 and 2005 (€/MWh)

	Household customer 22 MWh/year			Professional customer 2,800 MWh/year			Industrial customer 25,000 MWh/year		
	2004	2005	Δ 2005/2004	2004	2005	Δ 2005/2004	2004	2005	Δ 2005/2004
ALG*	11.85	11.69	-1%	2.70	2.39	-12%	0.53	0.50	-6%
GASELWEST	12.05	11.18	-7%	2.95	2.48	-16%	0.76	0.67	-12%
IDEG	12.72	12.54	-1%	3.54	2.63	-26%	1.22	1.16	-5%
IGAO	8.42	7.99	-5%	1.46	1.48	2%	0.40	0.47	18%
IGH	12.32	12.03	-2%	2.94	2.21	-25%	0.60	0.74	24%
IMEWO	10.12	10.01	-1%	2.35	2.19	-7%	0.90	0.51	-44%
INTERGAS*	8.99	8.36	-7%	1.77	1.62	-8%	s.o.	s.o.	s.o.
INTERGEM	11.05	10.41	-6%	2.60	2.28	-12%	0.57	0.65	14%
INTERLUX	15.78	14.94	-5%	3.94	3.34	-15%	1.37	1.61	18%
INTERMOSANE	11.98	12.00	0%	3.35	3.56	6%	2.08	2.83	36%
IVEG*	9.85	10.61	8%	2.31	2.21	-4%	1.12	0.83	-26%
IVEKA	9.68	9.00	-7%	2.03	1.73	-15%	0.73	0.46	-37%
IVERLEK	10.67	10.12	-5%	2.43	2.21	-9%	0.43	0.49	13%
PLIGAS*	12.22	12.13	-1%	3.84	1.93	-50%	2.06	1.32	-36%
SEDILEC	11.50	11.76	2%	2.74	2.25	-18%	0.97	0.97	0%
SIBELGA*	11.47	12.03	5%	3.87	3.61	-7%	2.62	2.35	-10%
SIBELGAS NOORD	14.15	13.17	-7%	3.81	2.69	-29%	1.50	1.48	-2%
SIMOGEL	10.33	9.80	-5%	2.20	1.84	-17%	0.93	0.83	-11%
WVEM*	10.58	11.49	9%	2.05	2.13	4%	1.41	1.30	-8%
AVERAGE	11.35	11.12	-2%	2.78	2.36	-15%	1.12	1.06	-5%

* Tariffs approved by the Management Board (for SIBELA, only in 2005)

Source: CREG

Two distribution network operators informed CREG of a material error in the tariffs approved for 2005. The first, PLIGAS, had added an incorrect tariff scheme when drawing up the tariffs for customer group 2 and asked the Management Board for permission to rectify this with a new tariff scheme. Given that the tariffs are supposed to cover the estimated costs, the Management Board decided to approve this erratum, which brought about a reduction in tariffs and to make the corrected tariffs applicable from 1 January 2005 to 31 December 2005 inclusive. The second, ALG, informed the Management Board of an inconsistency in the tariffs for customer group 3 (KG3) in the tariff list originally published. The Management Board, which considered that this was a material error and that the tariffs published did not cover the provisional charges, decided to rectify this error and approved new KG3 tariffs for the period from 1 January 2005 to 31 December 2005 inclusive.

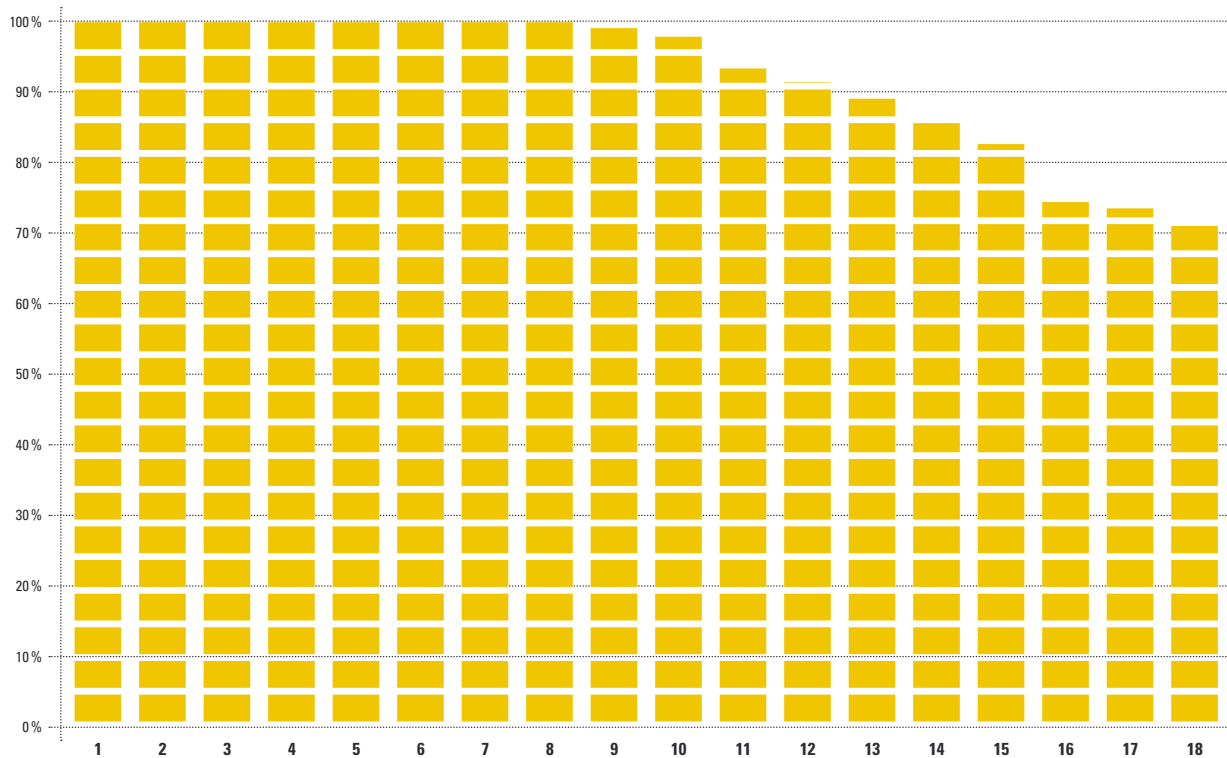
Table 14 shows the trend in natural gas distribution network tariffs between 2004 and 2005 for three customer groups. All the tariffs on average followed a downward trend during this period, under the impact of the checks carried out by the Management Board and the fall in long-term interest rates. In 2005, the tariff structure for industrial customers was altered, and this may explain the asymmetrical evolution of these tariffs for some distribution network operators.

2.7.1.4. Tariffs for 2006

On 17 November 2005, the Management Board decided to reject all the tariff proposals submitted by the eighteen distribution network operators for the 2006 operating year, indicating the points to be adapted. These related, amongst other things, to the conformity of the tariff scheme with the reporting model, the charging of general costs in the connection tariffs, the inclusion of surplus value on disinvestments in the value of the regulated asset base, the calculation of the nominal operating capital or the introduction of an excessively high budget for 2006 on the basis of the benchmarking analysis.

After this, adapted tariff proposals were submitted by all but one distribution network operator, five of which gave rise to a decision to approve the tariffs for the year 2006. For the remaining thirteen, the Management Board introduced temporary tariffs for a renewable three-month period, as of 1 January 2006, owing to the inadequately justified variance from the guidelines drawn up by the Management Board and insufficient cost control.

To assess the reasonable nature of the costs included in the tariff proposals submitted by the network operators, the Management Board compares these with the costs of the previous operating years and uses a standard method of measuring the efficiency of the network operators. Moreover, so as to be able to assess the cost control efforts made by the various distribution network operators

Figure 14: Results of the efficiency measurements using the DEA method

Source: CREG (results calculated on the basis of the real data of 2004)

on a uniform and quantified basis, the Management Board has developed an evaluation model based on the following principles:

- the non-imposed, internal costs proposed in the operating budget for the year 2006 may, in real terms and taking account of the pace of investment, under no circumstances, be higher than the actual, non-imposed internal costs of the 2004 operating year, the first year for which the Management Board has an acceptable indication of the cost level in the distribution sector;
- the network operators have to demonstrate maximum control of their cost prices, on the basis of a DEA (Data Envelopment Analysis) type comparison with constant advantages of scale based on the real costs for 2004, spread over four years as of 2006, in particular by achieving a maximum efficiency score (100%). Consequently, in the 2006 budget one-quarter of the efficiency improvement must be achieved, with an annual maximum of 8% in reduced, non-imposed internal costs.

The DEA technique makes it possible, on the basis of the comparison of inputs (the non-imposed internal costs, for instance) with relevant outputs (the number of supply points, for instance), to rank each network operator by an efficiency score ranging from 0% to 100%. The network

operator's efficiency score is calculated by comparing it with the network operators that produce as many outputs with a minimum combination of inputs. A network operator will be considered efficient if no other operator can produce as many outputs with fewer inputs. Figure 14 shows the efficiency scores of the network operators. Eight operators achieve a maximum efficiency score, while the scores of the other operators vary between almost 70% and 98%. The average efficiency score is 92.13%.

2.7.1.5. Amendments to regulatory framework

As regards the amendments to the regulatory framework introduced by the Law of 1 June 2000 and the Management Board's advice on the draft Royal Decree concerning certain evaluation rules that apply to the gas and electricity transmission and distribution companies, please refer to Part 1, point 2.6.3.5., of this report.

2.7.2. Tariff-setting in captive market

2.7.2.1. Tariff methodology

The tariff methodology applied to the captive market is based on the following tariff principles:

(a) Covering the full costs

The tariffs are intended to cover the full costs related to the import, transmission and distribution of natural gas, that is the price at which the natural gas is purchased by the historic operator, the operating costs of the distribution and transmission networks (salaries and various materials) and the investments in these networks, including remuneration of the capital invested.

2.7.2.2. Evolution of tariffs

In 2005, the price trend was characterised by the sharp rise in the cost of fossil fuels. This increase is clearly shown by the rise in parameter Iga – although this is mitigated by a time difference of approximately six months and a flattening out of the trend in natural gas prices – and by the admittedly lower rise in the Igd parameter, that is in line with inflation in Belgium.

Table 15: Evolution of annual billing on the captive market between 2001 and 2005, excluding surcharges and VAT (€)

	Annual Iga	Annual Igd	Household customer "cooking - warm water" 2,000 kWh/year Tariff A	Household customer "individual heating" 22,000 kWh/year Tariff B	Household customer "collective heating" 17,000 kWh/year Tariff C
2001	0.8958	1.3665	115.58	727.29	430.46
2002	0.7711	1.3953	111.04	665.80	380.17
2003	0.7773	1.4188	112.63	673.99	384.24
2004	0.7640	1.4476	114.54	683.55	389.03
2005	0.9631	1.4904	125.45	786.47	464.45
Δ 2005/2004	26%	3%	9.5%	15.1%	19.4%

Source: CREG

(b) Explaining the costs structure

The costs of purchasing, transmitting and distributing gas that have to be recovered by means of the tariffs charged can be divided into two main categories, i.e. the fixed costs independent of natural gas consumption (such as measuring, meter reading and billing); the proportional costs that are directly related to the volume of natural gas consumed. This two-part cost structure is reflected in the different tariffs, bearing in mind the average consumption characteristics of the major consumer groups.

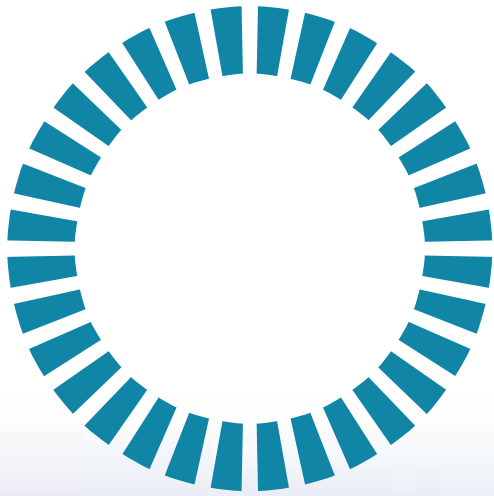
(c) Following cost trends

In order to ensure that the full costs are properly covered and that natural gas prices are sensibly adjusted, the Management Board calculates, in conjunction with SYNERGRID¹⁷², the values of the revision parameters Iga and Igd, that reflect the trend in fuel costs on the basis of the purchase price of natural gas at the Belgian border and the development of the remaining components in the natural gas cost price on a monthly basis. These parameters, as well as the tariff applied on the captive natural gas market, are set out in monthly publications in the Belgian Gazette and on the CREG website.

2.8. Possibilities of appealing against decisions taken by CREG

Please refer to Part 1, point 2.8., of this report.

¹⁷² Federation of electricity and gas network operators in Belgium.



3 The Commission for Electricity and Gas Regulation (CREG)

1. Tasks entrusted to CREG

CREG was set up by two laws of 29 April 1999 and has two tasks: a consultancy task, advising the Government on the organisation and functioning of the electricity and natural gas markets; and a supervisory task, monitoring the application of the relevant laws and regulations applicable to these markets.

The areas of competence granted to CREG to enable it to carry out its tasks are summed up in the Electricity and Gas Acts and explained in detail in Parts 1 and 2 of this report.

2. Bodies of CREG

2.1. Council-General

The Council-General defines the approaches for the application of the Electricity and Gas Acts and their implementing decrees, assesses the way in which the Management Board carries out its tasks, formulates opinions on any issue submitted to it by the Management Board and constitutes a forum for discussion on the aims and strategies of energy policy in the electricity and natural gas sectors. It can also ask the Management Board to carry out studies or issue advices.

Its composition and working methods are laid down in a Royal Decree of 3 May 1999 and its members were appointed by Ministerial Decree of 5 March 2004 for a period of three years, as of 20 February 2004. In 2005 the Council-General was chaired by Mr Rudy DE LEEUW and its vice-chairperson was Ms Caroline VEN.

The Council-General met eleven times in the course of 2005.

Table 16: Members of the Council-General as at 31 December 2005¹⁷³

	ACTUAL MEMBERS	DEPUTY MEMBERS
Federal government	ROOBROUCK Nele RENARD Marc FAUCONNIER Marie-Pierre HOUTMAN Eric	AVARELLO David DAMILOT Julien DEMEYERE Frank
Regional governments	BIESEMAN Wilfried DEVUYST Philippe FRAIX Jacques	BALFROID Fabienne TANGHE Martine LEFERE Raphaël
Representative employees' organisations sitting on the National Labour Council	LEEMANS Marc DE LEEUW Rudy HAAZE Guy PANNEELS Anne SKA Marie-Hélène	CLAUWAERT Annick DEKELPER Irène DECROP Jehan DAWANCE Jean-Pierre VAN MOL Christiaan
Representative employees' organisations sitting on the Council for Consumption	WILLEMS Tom VAN DAELE Daniel	QUINTARD Christophe SPIESSENS Eric
Organisations for the promotion and protection of the general interests of small-scale customers	LABARRE Vincent SCHOCKAERT Chantal	ADRIAENSSENS Claude LESAGE Olivier
Representative organisations of industry, banking and insurance sitting on the Central Economic Council	VEN Caroline CHAPUT Isabelle AERTS Kristin	VANDERMARLIERE Frank CALOZET Michel VAN DER MAREN Olivier
Representative organisations of the crafts, small and medium-sized trading companies and small-scale industry sitting on the Central Economic Council	ERNOTTE Pascal HEYLEN Jan	WERTH Francine VANDENABEELE Piet
Major electricity customers	CLAES Peter	BOSCH Claire
Major natural gas customers	BRAET Luc	EELENS Claire
Producers	DE GROOF Christian CAUWENBERGH Katia	SIMONS Mariane GREGOIRE Claude
Producers renewable energy sources	JACQUET Annabelle	VERBRUGGEN Aviel
Producers co-generation	PEERSMAN Inneke	MARENNES Yves
Distribution network operators - INTERMIXT	DECLERCQ Christine HUJOEL Luc PEETERS Guy DE BLOCK Gert GERKENS Isabelle	BURTOMBOY Marc DRAPS Willem VERSCHELDE Martin HOUGARDY Carine AERTSENS Walter
- INTER-REGIES Transmission network operator	LEBOUT Didier HEYVAERT Griet VERMEIRE John	NIEUWLAND Dominique LAMMENS Griet LEYEN Ingrid
Gas companies, other than the distribution companies, belonging to the Association of the Gas Industry	CLAEYS Bram PATERNOSTRE Véronique	VIS Stephan DELLAERT Peter
Environmental associations	DE FOER Piet	LAMBERTS Véronique
Intermediaries	RUTTEN Jaak	DUTORDOIR Sophie
Suppliers	VANDERVEEREN Christine	
Chairman of the CREG Management Board		

Source: CREG

In February, the Minister for Energy took part in the activities of the Council-General, and urged a better distribution of tasks between CREG and the Administration for Energy on the one hand and the Competition Council on the other. Referring to the Memorandum of Understanding being prepared with France and the Netherlands relating to cross-border interconnections, the Minister also informed the Council-General of the wish expressed by Germany and Luxembourg to join such an initiative.

During its March meeting, the Council-General noted that the bills on the incorporation into national law of the

European directives on electricity and gas did not comply with three of the main comments which it had made in its advice on this issue¹⁷⁴, that is the competence of the regulatory body, the independence and the appointment of the network operator and the procedure for approving the tariffs. The Minister was informed of these observations.

In October, the Council-General unanimously approved the CREG budget proposal for 2006, with the exception of the representatives of the Federal Government, who abstained.

¹⁷³ In accordance with the ministerial decrees of 1 February 2005 (Belgian Gazette of 14 February 2005) and 25 July 2005 (Belgian Gazette of 19 August 2005).

¹⁷⁴ Annual Report 2004, Part 3, point 2.1.

As in previous years, the Council-General expressed its view, in the form of advices and recommendations, of the proposals, studies and advices put forward by the Management Board which it deemed fit to examine, as well as the questions asked by the Minister for Energy, specifically on the basis of the reflections of the various working groups set up under its aegis for:

- the indicative programme for power generation 2005-2014¹⁷⁵

The “Indicative programme for power generation 2005-2014” working group examined a second version of the programme that took account of its earlier comments.

The Council-General expressed itself in favour of the indicative programme for power generation 2005-2014 prepared by the Management Board.

It hopes that the experience gained when drawing up this programme can be used efficiently when drawing up the future elaboration of the programmes.

Given the announced growing dependence on natural gas, the Council-General recommends looking into the possibilities and the policy to be adopted with a view to a mixed development on the basis of gas and clean coal-fired power plants.

The Council-General keeps an eye on the general interest as regards the functioning of the electricity market in Belgium, and security of supply is one aspect of this. In this context, it notes that the indicative programme recommends an investment policy in centralized generating units on the basis of a cautious scenario (looking forward to 2019) as regards the availability of other energy sources intended to cover demand. It also notes that this is a flexible policy whereby the planned investments can be deferred if necessary, depending on the evolution of the market.

The Council-General points out that regularly updating the indicative programme makes it possible, if necessary, to correct the course adopted, in line with the development of the underlying parameters (or hypotheses).

- the way the Belgian electricity market operates on the basis of the London Economics study¹⁷⁶

The first half of 2005 was governed by the preparatory work for the Council-General advice of 27 April 2005 on the London Economics study relating to the way in which the Belgian electricity market operates.

The “Functioning of the market system” working group prepared the advice on the London Economics study.

The Council-General notes that the electricity market in Belgium does not yet operate as well as it could, and that not all categories of customers are able to benefit from the liberalisation. The Council-General notes that many customers complain about the situation, including about prices. These are indeed too high for customers as a result of the additional costs levied by the various authorities and despite the nature and economic performance of the generating plants. These price rises are not offset by the falls in transmission and distribution network tariffs that have been achieved over the past few years.

As regards vertical integration in the electricity sector, all members of the Council-General agree that no market party should be able to benefit from its participation in the shareholding body of the network operators (either transmission or distribution). There is, however, the feeling that such an advantage could exist, curbing the entry of newcomers into the sector. This uncertainty could be eliminated by complete ownership unbundling between producers and suppliers on the one hand and network operators on the other. The Council-General recommends that every market player – individually or through affiliated companies – for whom the generation, supply and/or trading of electricity form a substantial activity, should reduce their shareholding to below the level of a blocking minority and that the credibility of the rules on corporate governance should be strengthened further.

As regards the concentration of the market, the Council-General does not advocate a pure and simple division of ELECTRABEL into four or several independent entities. However, it is asking the CREG Management Board to carry out an additional study with a view to indicating how a programme can be devised and implemented at European or Belgian level to make available part of the generating capacities of the dominant market player to other market players. This study should indicate what different types of capacity releases are possible (auctioning virtual power plants: VPP, exchange of capacity (swaps), the power purchase agreements: PPAs, etc.) and the means of implementing such a programme in practice, with a view to achieving the hoped-for result, that is cheaper electricity for the end customer.

The Council-General also believes that over the coming years competition will have to be stimulated by a substantial increase in available import capacities, without losing the necessary balance between the increase in production in Belgium and in import capacity. It stresses the need to strive for closer cooperation at a European level and even the integration of the various transmission network opera-

¹⁷⁵ Part 1, point 2.5.2., of this report.

¹⁷⁶ The study is available on www.creg.be. See also Annual Report 2004, Part 3, point 2.1.

tors. In any case, the existing import capacities need to be managed more efficiently with a view to improving the way the market operates. In addition, these capacities must be extended by the faster implementation of the ELIA 2003-2010 investment plan.

The Council-General does not wish to return to a regulated system such as that which existed previously. However, it does fear that the lack of competition and high prices are hampering the continued existence of certain activities in Belgium and that all customers, both businesses and households, are suffering because of the current lack of competition in the market. This is why it is urging that the way the market operates, and in particular price evolution, should be closely monitored and that if necessary, temporary regulating measures should be taken if the industrial structure and employment in Belgium were to be jeopardized. Such measures should be taken in accordance with European legislation.

The Council-General also formulates a number of other recommendations, including:

- setting up a power exchange covering the Belgian, French and Dutch markets, in accordance with specified rules;
- implementing a regulated balancing system with tariffs based on the actual costs and not on market prices;
- obliging market players to distribute certain information about production, transmission and distribution, as well as customer profiles, along the lines of that which is already done in countries where the markets have been liberalised for a longer period, in order to promote access to the market.

- the draft Royal Decree concerning certain evaluation rules applicable to gas and electricity transmission and distribution companies¹⁷⁷:

The "Regulation" working group examined the draft Royal Decree concerning certain evaluation rules applicable to gas and electricity transmission and distribution companies.

As regards the depreciation policy, it believes that the transmission and distribution of gas and electricity constitute four different systems that cannot be treated in the same way. As regards determining the depreciation period, the Council-General notes that the regional regulators and CREG have exclusive and autonomous areas of competence, the regions in terms of accounting and CREG in terms of tariffs. The Council-General emphasises that the management of gas and electricity networks constitutes a

regulated sector with regulated tariffs. CREG must be able to impose depreciation terms in the context of its authority over tariffs, in order to set regulated tariffs. These terms must be established by weighing the impact on tariffs of the depreciation against the self-financing capacity of the companies.

Regulation as a whole must remain bearable for the companies being supervised, and the various regulations to which companies are subject must be brought into line with one another as far as possible.

In its advice of June 2005, the Council-General asked the Minister not to publish the draft Royal Decree for the time being.

- the bill on the organization of possibilities for appealing against decisions taken by CREG¹⁷⁸

The "Regulation" working group examined the study on the bill concerning the organization of possibilities for appealing against decisions taken by CREG.

The Council-General agrees with the conclusions of the study carried out by the Management Board as regards 1) the possibility of appealing to the Competition Council against decisions taken by CREG relating to contracts and methods of allocating cross-border capacity, 2) the possibility of appealing to the Brussels Court of Appeal, 3) the incompatibility with the electricity and gas directives and 4) reversing the assumption of legality (the so-called *privilège du préalable*) attached to all administrative legal acts.

- the draft Royal Decree concerning the establishment and organization of a market for the exchange of energy blocks¹⁷⁹:

The "Regulation" working group examined the draft Royal Decree defining the rules for the establishment of a market for the exchange of energy blocks (power exchange).

As a result, the Council-General has observed clear shortcomings as regards 1) the requirements concerning the independence of the market operator and any subsidiaries involved in the working of the market, 2) the essential transparency and obligation to provide information for producers and suppliers and 3) the monitoring of the market operators carried out by the Government (and the regulator).

The Council-General is also inviting the Minister to test the regulatory framework of the Belgian power exchange with those of his colleagues who are concerned, given that it is linked to other exchanges and markets.

¹⁷⁷ Part 1, point 2.6.3.5., of this report.

¹⁷⁸ Parts 1 and 2, point 2.8., of this report.

¹⁷⁹ Part 1, point 2.4.1., of this report

- the draft of ELIA development plan for the transmission network 2005-2012¹⁸⁰:

The "Plan for the development of the transmission network" working group examined the development plan prepared by ELIA for the period 2005-2012, as well as the note from the Management Board on this matter.

The Council-General published its advice on the development plan in September 2005.

The Council-General would like certain elements to be taken into account in the next plan, including chiefly 1) greater concordance between the indicative programme for power generation and the development plan for the transmission network, 2) the integration of the wind farms in the North Sea with land-based networks and the financial implications of this and 3) the necessary adaptations that could result from the announced closure of the nuclear power plants.

- the Management Board note on the social tariffs for electricity and gas¹⁸¹:

The "Components of electricity prices" working group considered the note from the Management Board on social tariffs in the electricity and gas sectors.

The Council-General considers the existence of a social benefit or a social rate for electricity and gas customers in certain social categories a settled matter. The Council-General also advocates the automatic allocation of the social tariffs for certain categories. The social security register should help offer a solution to this automatic process.

- the Management Board study on the impact of extending the night-time rate to the weekend for low-voltage network users¹⁸²:

The "Components of electricity prices" working group considered the study on the impact of extending the night-time rate to the weekend for network users connected to the low-voltage network.

Noting that the Flemish government has decided to implement this measure as of 1 January 2007, the Council-General argues that consultation should take place between the regional governments and the Federal Government to reach a uniform technical solution for sending out remote control signals. The Council-General believes that a measure such as this should not be financed by passing on the costs to other customers.

2.2. Management Board

The Management Board is responsible for the operational management of CREG and undertakes the acts that are necessary or useful for the fulfilment of its tasks. Its actions are reported in detail in Parts 1 and 2 of this report. It consists of six directors, appointed by Royal Decree, one of whom acts as chairperson.

Ms Christine VANDERVEEREN, Chairman of the Management Board and Director responsible for market litigation,

Mr Guido CAMPS, Director in charge of monitoring prices and accounts on the electricity market,

Mr Bernard LACROSSE, Administrative Director

Mr Thomas LEKANE, Director in charge of the technical working of the electricity market

Mr Jean-Paul PINON, Director in charge of the technical working of the natural gas market and

Mr François POSSEMIERS, Director in charge of monitoring prices and accounts on the natural gas market.

¹⁸⁰ Part 1, point 2.6.2.3., of this report.

¹⁸¹ Parts 1 and 2, point 2.3.3., of this report.

¹⁸² Part 1, point 2.3.4., of this report.

THE
COUNCIL-GENERAL



Caroline Ven



Rudy De Leeuw

THE MANAGEMENT
BOARD



Christine Vanderveeren



Guido Camps



Bernard Lacrosse



Thomas Lekane



Jean-Paul Pinon



François Possemiers

3. CREG staff

As at 31 December 2005, CREG had fifty-nine members of staff, not including the directors.

Table 17: The directorates and staff of CREG as at 31 December 2005

Chairmanship and directorate for market litigation		
Chairmanship	VANDERVEEREN Christine	Director and Chairman of the Management Board
	DEVACHT Christiane	Assistant to the director
	VANDEN BORRE Tom	Chief adviser
	DE CORTE Emmanuel	Adviser (seconded)
Market litigation	FIERS Jan	Secretary of the Management Board (part-time)
	HEREMANS Barbara	Principal advisers
	MARTINET Paul	
	MEIRE Evi	Advisers
MISERQUE Coralie		
DE DONCKER Filip	Assistant adviser	
Directorate for the technical working of the electricity market		
	LEKANE Thomas	Director
	GOOVAERTS Wendy	Assistant to the director
	GHEURY Jacques	Chief advisers
	MARIEN Alain	
	MEES Emmeric	
	DE WAELE Bart	
	JAHN Rafaël	Assistant adviser
	Directorate for monitoring prices and accounts on the electricity market	
	CAMPS Guido	Director
	HERNOT Kurt	Assistant to the director
	DEBIE Guido	Chief advisers
	DE RUETTE Patrick	
	LAERMANS Jan	
	WILBERZ Eric	
	CORNELIS Natalie	Principal advisers
	COURCELLE Christophe	
	DEBRIGODE Patricia	
	Directorate for the technical working of the natural gas market	
	PINON Jean-Paul	Director
	HERREZEEL Marianne	Assistant to the director
	VAN ISTERDAEL Ivo	Chief adviser
	CLAUWAERT Geert	Principal advisers
	CUJJPERS Christian	
	GOUVERNEUR Bruno	
	VAN HAUWERMEIREN Geert	
	CLUDTS Stephan	Advisers
	PIERREUX Nicolas	
	Directorate for monitoring prices and accounts on the natural gas market	
	POSSEMIERS François	Director
	DE PEUTER Caroline	Assistant to the director
	ROMBAUTS Josiane	Chief adviser
	ALLONSIUS Johan	Principal advisers
	JACQUET Laurent	
	LOCQUET Koen	
	MAES Tom	
	CUPPENS Wouter	Advisers
	DUBOIS Frédéric	
	Administrative directorate	
Council-General	LACROSSE Bernard	Director
	SELLESLAGH Arlette	Assistant to the director
	DELOURME Freddy	Chief adviser
General administration	FIERS Jan	Secretary to the Council-general (part-time)
	VAN KELECOM Inge	Multi-purpose secretary (part-time)
	JANSSENS Michèle	Office Manager
	LAGNEAU Vincent	IT specialist
	GORTS-HORLAY Pierre-Emmanuel	Assistant IT specialist
	ESSER Mercédès	Translators (part-time)
	HAESSENDONCK Herman	
LOI Sofia	Coordinator	
VAN KELECOM Inge	Multi-purpose secretary (part-time)	
Finance	CEUPPENS Chris	Multi-purpose office staff
	WYNS Evelyne	
	SCIMAR Paul	
Studies, documentation and archives	LECOCQ Nathalie	Accountant
	CHICHAH Chorok	Principal advisers
	PARTSCH Gwendoline	
	ROOBROUCK Myriam	
	STEELANDT Laurence	
	SMEDTS Hilde	Advisers
	ZEGERS Laetitia	
	HENGESCH Luc	

4. Cooperation with other bodies

4.1. CREG and European Commission

The European electricity and gas directives stipulate that each member state of the European Union has an obligation to report on the regulation and functioning of the electricity and gas markets and on the competition relations, security of supply and public service obligations on these markets. With the cooperation of the Flemish energy regulator (VREG), the Walloon regulator (CWaPE) and the Energy Administration of the Federal Ministry for the Economy, SMEs, the Self-employed and Energy, CREG decided, in coordination with the other member states of the European Union, to combine the required reports into a single report to the European Commission for the first time this year. The Management Board approved this report on 21 July 2005. In November 2005, the European Commission published a report on the basis of these contributions, assessing the progress made in the creation of an internal electricity and gas market¹⁸³.

The European Commission DG Competition also published a sector-based survey on the electricity and gas market. The aim of this survey was to examine whether the markets concerned operate in such a way that a competitive European industry can be assured and customers' interests can be defended by offering them a free choice of supplier and applying competitive prices. Questionnaires were sent to all the market parties concerned, as well as to the regulators. CREG completed the regulators' questionnaire in conjunction with VREG and CWaPE. In November 2005, the European Commission published the provisional results of the sector-based survey. The final results are expected in 2006.

4.2. CREG within CEER

At the end of 2005, the Council of European Energy Regulators (CEER) consisted of twenty-six competent authorities: Austria, Belgium, Cyprus, the Czech Republic, Denmark, Germany, Great Britain, Greece, Estonia, Finland, France, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Malta, the Netherlands, Norway, Poland, Portugal, Slovakia, Slovenia, Spain and Sweden.

In 2005, attention focused mainly on cooperation with the European Commission, in particular as regards the national reports for the benchmarking report and the sector-based survey produced by the DG Competition¹⁸⁴.

In 2005, CEER included a number of working groups. CREG took an active part in the "Electricity", "Gas" and "Single Energy Market" working groups.

The "Electricity" working group focuses its activities on the creation of an efficient and competitive single market for electricity. In 2005, particular attention was paid to the interpretation of the judgment from the European Court of Justice of 7 June 2005 concerning historic contracts¹⁸⁵.

The "Gas" working group has the task of preparing for the Madrid Forum¹⁸⁶ and ensuring the follow-up. In the context of this working group, the document entitled "Investments in gas infrastructures and the role of EU national regulatory authorities"¹⁸⁷ was approved by all members, except CREG which found the text too vague on certain essential points. CREG published a dissenting opinion on its website.

CEER also drew up the Guidelines for Good Practice for Gas Storage System Operators¹⁸⁸.

The "Single Energy Market" working group concentrates on strategic issues, with a view to establishing a plan that indicates how the transition from national markets via regional markets to a single market should proceed.

4.3. CREG within ERGEG

The European Regulators Group for Electricity and Gas (ERGEG) is an advisory group set up by the European Commission to advise and assist it in its work to consolidate the internal energy market through the implementation of the new electricity and gas directives and the regulation concerning cross-border trade in electricity, amongst other things. The activities of ERGEG are undertaken within the Gas Focus Group on the one hand and the Electricity Focus Group on the other.

In June 2005, ERGEG began a public consultation process with a view to the creation of regional electricity markets in Europe. In the consultation document¹⁸⁹ attention focused in particular on the availability of capacity on the interconnections, the transparency and monitoring of information, the mutual cooperation between the transmission network operators, accounting between the wholesale markets and the role of the authorities and regulators.

¹⁸³ Part 1, point 1.1., of this report

¹⁸⁴ Point 4.1. above.

¹⁸⁵ Part 1, point 2.6.2.4., of this report.

¹⁸⁶ Part 2, point 1.3., of this report.

¹⁸⁷ This document is available on the CEER website (www.ceer-eu.org).

¹⁸⁸ Available on the ERGEG website (www.ergeg.org);

¹⁸⁹ Creation of Regional Electricity Markets: an ERGEG discussion paper, available on the ERGEG website (www.ergen.org).

ERGEG published a report¹⁹⁰ giving the results of the forums organized in the period from December 2004 to February 2005. The topics covered there and subsequently included in the report included targeted methods of congestion management, allocating responsibility for congestion management to market players, legal aspects of congestion management and transparency.

ERGEG also drew up guidelines on congestion management on electricity interconnections as well as guidelines on transmission network tariffs. Finally, the ERGEG Customer Focus Group (CFG) published three reports on the transparency of energy prices, customers changing suppliers and customer protection.

4.4. CREG and regional regulators

The most visible result of the cooperation between CREG on the one hand and the regional regulators (VREG, CWaPE and BIM) on the other in 2005 was without doubt the joint publication on developments on the electricity and gas markets in Belgium on 13 April 2005. This publication entailed a great deal of preparatory work so as to adopt an identical methodology when gathering and presenting statistics.

On 22 September 2005, the four regulators also issued a joint communication on the liberalising of the gas market at distribution level which dealt, amongst other things, with the problem of harmonizing data on gas offtake.

Consultation with the regulators also concerned the new UMiX structure, dealing with complaints, default suppliers, the exchangeability of green certificates, the restructuring of the mixed sector in Flanders and the balancing costs for 2004.

4.5. CREG, the Competition Service and board of rapporteurs

In application of the Royal Decree of 20 September 2002 concerning cooperation between CREG, the Competition Services and the board of rapporteurs, in 2005 two consultation meetings were held, on 26 January and 21 September. During these meetings, the three bodies held discussions on their mutual cooperation, particularly as regards following up the VPP auctions in the context of the decisions taken by the Competition Council and their mutual exchange of information on the one hand, and on the legal developments regarding competition law and the electricity and gas markets on the other.

4.6. Multimedia Contact Centre

This information service was set up on 10 October 2005 under the aegis of the Federal Ministry for the Economy and has the task, amongst other things, of dealing with questions about energy¹⁹¹. Cooperation between this service and CREG is planned.

4.7. National Energy Committee

Article 34 of the Electricity Act provides for the abolition of the National Energy Committee and entrusts to the King the task of dealing with the dissolution of this institution and all questions to which this may give rise, in particular the transfer of its areas of competence, its staff and its property, rights and obligations. An initial draft Royal Decree implementing this provision was the subject of an advice from the Management Board¹⁹², but did not result in the approval of a Royal Decree. Contrary to this first draft Royal Decree which remained silent on this matter, the draft Royal Decree on which the Management Board issued an advice in 2005¹⁹³ transfers the areas of competence and the tasks of the National Energy Committee to the Central Economic Council. The Management Board felt that this transfer of competence went beyond the authority granted by Article 35 of the Electricity Act and therefore advised that the article in question be scrapped from the draft Royal Decree.

¹⁹⁰ Available on the ERGEG website (www.ergreg.org)

¹⁹¹ The Multimedia Contact Centre can be contacted by telephone on 0800 12033, by fax on 0800 12057, by e-mail at info.eco@mineco.fgov.be and by post at Rue du Progrès 50, B-1210 Brussels.

¹⁹² Annual Report 2000, Part 1, point 1.2.2.

¹⁹³ Advice (A)050623-CDC-444.

5. CREG finances

5.1. Federal contribution

The federal contribution is levied in the form of a surcharge on electricity and gas tariffs with a view to financing certain public service obligations and the costs relating to the regulation and monitoring of the electricity and gas market.

Unlike the legislation relating to the federal contribution in the gas sector, that related to the electricity sector underwent two major changes in 2005¹⁹⁴ which came into effect as of 1 October 2005.

Firstly, from now on this federal contribution will be levied by the electricity suppliers, and not by the electricity transmission network operator, as has hitherto been the case. Consequently, final adjustments decided on 30 September 2005 were carried out with ELIA for each of the funds managed by CREG, and the first payments of the federal contribution by the electricity suppliers will not be made until the end of the first quarter of 2006. Nevertheless, ELIA financed the fourth quarter of 2005 thanks, amongst other things, to the billing surplus recorded in 2004.

Secondly, as of 1 October 2005, professional customers benefit from a degressive rate for the federal contribution, depending on their consumption. However, this will only impact on the amounts coming into the funds administered by CREG from 2006 onwards.

Moreover, from now on the federal contribution will supply five funds managed by CREG – the CREG fund, the social energy fund, the denuclearisation fund, the greenhouse gases fund and the protected customers fund.

5.1.1. CREG fund

The Royal Decree of 13 February 2005¹⁹⁵ set the cover for the total operating costs of CREG for 2005, including the mediation service, at € 13,274,138. This amount, 69% of which is borne by the electricity sector and 31% by the gas sector, is divided among CREG (€ 12,313,586), the mediation service (€ 832,054) and the need to bring the reserve up to the required level (€ 128,498).

However, the calls for payment from the electricity and the gas sectors took account of the balance available from 2004, which stood at € 1,984,459. Consequently, amounts of € 822,263 and € 1,162,196, respectively, were deducted from the calls for payment from the electricity and gas sec-

tors for 2005 and taken into account when calculating the unit surcharges.

5.1.2. Social Energy Fund

For 2005, this fund amounted to a total of € 44,703,419, of which € 25,677,997 is financed by ELIA and € 17,913,934 by the gas suppliers. The difference is covered by the balance available from 2004, which amounts to € 312,363 for the electricity sector and € 799,125 for the gas sector. These amounts were taken into account when calculating the unit surcharges.

The adjustments to the surplus collected by ELIA on the uptake for 2004-2005 and by the gas suppliers on the uptake for 2004 amount respectively to € -211,419 and € +1,525,847 and were added to the amounts claimed in 2005. They will subsequently be included in the amounts to be claimed and taken into account when calculating the unit surcharges. The investment of these sums while awaiting expenditure yielded € 29,839 in interest.

As at 31 December 2005, the overall amount of the fund available stood at € 12,473,768.

5.1.3. Denuclearisation Fund

This fund, which is intended to finance nuclear liabilities BP1 and BP2, is supplied exclusively by the electricity sector. It was originally administered by O.N.D.R.A.F., the Belgian Agency for Radioactive Waste and Enriched Fissile materials, but this task was transferred to CREG as of 1 October 2005, and as a result CREG collected € 13,750,000 in December 2005. This amount will be transferred to O.N.D.R.A.F. at the beginning of 2006 for the fulfilment of its task.

5.1.4. Greenhouse Gases Fund

This fund, which amounted to € 25,970,417 for 2005, is supplied exclusively by the electricity sector, which provides the sum of € 23,844,840, with an additional € 1,779,805 in transfers from the reserve established to guarantee exemption from this surcharge¹⁹⁶ and € 345,772 which corresponds to the balance available from 2004. In accordance with Article 12 of the Royal Decree of 24 March 2003, CREG paid € 2,300,000 into the organic budget fund intended to finance the federal policy on the reduction of greenhouse gases. The balance was placed in the National

¹⁹⁴ Law of 20 July 2005 comprising various provisions and amending the Electricity Law (Belgian Gazette of 29 July 2005); Royal Decree of 26 September 2005 amending the Royal Decree of 24 March 2003 determining the more detailed rules on the federal contribution towards the financing of certain public service obligations and the costs

related to the regulation and monitoring of the electricity market (Belgian Gazette of 29 September).

¹⁹⁵ Belgian Gazette of 28 February 2005.

¹⁹⁶ In accordance with Article 5 of the Royal Decree of 24 March 2003.

Bank of Belgium pending subsequent allocation. In 2005, this investment yielded € 1,057,869 in interest. The final adjustment of the surplus collected by ELIA amounts to € 116,504 and is added to the amount given above and later included in the amount to be claimed and the calculation of the unit surcharge.

In accordance with the new legislation¹⁹⁷, the greenhouse gases fund prefinanced the sum of € 8,662,500 which corresponds to the VAT payable by O.N.D.R.A.F. for the first three quarters of 2005. The Federal Finance Ministry reimbursed the fund.

As at 31 December 2005, the amount available in the fund stood at € 71,945,357.

5.1.5. Protected Customers Fund

This fund, set up to help protected household customers, stood at a total of € 34,300,000¹⁹⁸ for 2005 and is supplied by ELIA to the tune of € 25,047,199 (after deduction of the adjustment in its favour of € 392,801) and by calls for payment from gas suppliers amounting to € 8,679,294 (after deduction of adjustments in their favour amounting to € 210,706). These amounts are being added to the sum collected in 2004 of € 22,610,000. The introduction of more precise rules for repayment¹⁹⁹ to electricity and gas companies that have supplied protected household customers at social maximum prices began in 2005. Sums of € 25,471,657 and € 11,844,146 respectively were repaid to electricity and gas suppliers in 2005.

The investment of the amounts involved pending the allocation of the electricity and gas fund brought in interest of € 183,444 and € 54,132 respectively.

As at 31 December 2005, the amounts available in these two funds stood at € 15,728,985 and € 3,185,235, respectively.

5.1.6. Fund to Compensate for Loss of Municipal Revenue

This fund, which is also administered by CREG and is considered a "federal contribution" by Article 22*bis* of the Electricity Act but is independent of the first five funds, is intended to compensate for the loss of revenue suffered by the municipalities as a result of the liberalisation of the electricity market. It is supplied by the electricity distribution network operators²⁰⁰. In 2005, the sum of € 131,318,635 was added to the € 100,421,575.49 already collected the previous year. Amounts of € 107,889,793 and € 120,850,417 were repaid to the beneficiary municipalities²⁰¹ to compensate for their loss of income in 2004 and 2005.

The investment of sums pending their allocation brought in € 638,760 in interest.

As at 31 December 2005, the amount available in the fund stood at € 3,638,760.

5.2. Accounts for 2005

The total operating charges of CREG in the 2005 financial year amounted to € 12,371,032.59, which corresponds to 94.1% of the budget laid down in the Royal Decree of 13 February 2005.

The excess surcharge actually reclaimed from their customers in 2004 by the natural gas suppliers (€ 419,059) was adjusted in 2005. For ELIA, as a result of the amendment to the law, a final adjustment was made that ran until 30 September 2005 (€ 84,018). These two adjustments are added to the income relating to the share of the contribution set aside to cover CREG's operating costs. However, when these accounts were closed, the amount of this surplus income released by the gas suppliers in 2005 was not known.

The provision of € 510,000 intended to cover part of the contractually agreed indemnities for outgoing directors whose mandate was not to be renewed as of 10 January 2006 is being retained owing to the uncertainty in the short term that remains after the date on which the accounts were closed.

Although the mediation service has still not been officially set up, it will retain the amount budgeted in 2005 of € 832,054 in order to finance its operating costs as soon as it is created in 2006. The relevant reserve of € 124,808, which comprises 15% of the amount budgeted for this service, was separated from the CREG reserve in order to be returned to the sector.

Consequently, the surplus of income over actual charges of CREG for the 2005 financial period amounted to € 1,403,341.28. This amount will be deducted from the amount to be financed by the proceeds of the federal contribution the next time the surcharges are calculated and will be adjusted in line with the provisions of Article 11, §4, of the Royal Decree of 24 March 2003.

CREG's auditor has issued an unqualified opinion on the annual accounts as at 31 December 2005.

¹⁹⁷ Article 21*ter* of the Electricity Law as added by Article 63 of the Law of 20 July 2005.

¹⁹⁸ Royal Decree of 27 January 2005 setting the amount for 2005 of the funds intended to finance the actual cost price further to the application of maximum prices for the supply of electricity and natural gas to protected household customers (Belgian Gazette of 17 February 2005).

¹⁹⁹ As defined by the Royal Decrees of 21 January 2004.

²⁰⁰ Ministerial Decree of 13 May 2005 implementing Article 22*bis* of the Electricity Law (Belgian Gazette of 18 May 2005).

²⁰¹ Royal Decree of 20 April 2005 determining the terms and procedures for allocation of the federal contribution set up to compensate municipalities for their loss of income as a result of the liberalisation of the electricity market (Belgian Gazette of 17 May 2005).

Table 18: Income statement as at 31 December 2005 (€)

ITEM	DESCRIPTION	2005	2004	
Personnel costs	Salaries and charges	8,140,597.14	7,446,747.43	
	Provisions for indemnities for outgoing directors	145,000.00	145,000.00	
	Provisions for 2006 holiday bonuses	76,986.92	426,202.82	
	Temporary staff	0.00	15,284.71	
	Recruitment costs	31,059.01	77,692.55	
	Ongoing training, seminars	53,407.74	57,377.53	
	Leasing company cars	220,455.89	174,476.62	
	Value added tax	47,635.47	52,281.77	
	Sub-total	8,715,142.17	8,395,063.43	
	Bodies	Indemnities Council-General (attendance fees and various contributions)	105,357.84	91,304.70
Sub-total		105,357.84	91,304.70	
"Personnel costs" sub-total		8,820,500.01	8,486,368.13	
External experts	External studies	513,684.81	703,901.65	
	Communication service	37,196.87	50,098.63	
	Translators, auditor, lawyers, social secretariat, etc.	309,125.47	242,844.08	
	Chamber of appeal (Geschillenkamer/Chambre de litiges)	0.00	0.00	
	Sub-total	860,007.15	996,844.36	
Operating costs	Rental and charges - premises	836,779.80	812,899.55	
	Parking facility rental	56,871.07	50,175.16	
	Building maintenance and security	104,802.75	104,539.15	
	Equipment maintenance and servicing	35,092.92	39,185.54	
	Documentation	80,029.15	75,489.35	
	Telephone, post, Internet	66,778.14	70,460.76	
	Office supplies	49,222.06	60,242.61	
	Costs of meetings and expenses	86,460.66	82,760.33	
	Travel expenses (including abroad)	37,127.95	23,168.74	
	Membership of associations	24,744.91	32,148.00	
	Insurance, taxes and sundry	121,132.57	105,654.98	
	Value added tax	170,481.25	253,010.53	
	Sub-total	1,669,523.23	1,709,734.70	
	Depreciation	Depreciation on intangible and tangible fixed assets	145,813.72	136,709.07
		Depreciation on leasing	36,201.15	55,433.31
Sub-total		182,014.87	192,142.38	
Financial costs	Financial charges on leasing and loans	3,799.88	6,594.65	
	Other	3,133.45	3,078.17	
	Sub-total	6,933.33	9,672.82	
"Operating costs" sub-total		2,718,478.58	2,908,394.26	
Mediation Service		832,054.00	0.00	
TOTAL CHARGES		12,371,032.59	11,394,762.39	
Income	Operating cost fees and surcharges (including mediation service)	13,145,640.01	12,385,932.95	
	ELIA adjustment final	84,018.50	82,203.55	
	Gas suppliers' adjustment 2004 financial year	419,059.17	825,761.73	
	CREG adjustment 2005 financial year	- 1,403,341.28	- 1,984,458.71	
	Other fees	11,478.92	5,739.46	
	Sub-total	12,256,855.32	11,315,178.98	
Financial income	Income from current assets	94,248.60	60,070.11	
	Other financial income	0.11	8.11	
	Sub-total	94,248.71	60,078.22	
Extraordinary income	Other extraordinary income	19,928.56	19,505.19	
	Sub-total	19,928.56	19,505.19	
TOTAL INCOME		12,371,032.59	11,394,762.39	
RESULT FOR FINANCIAL YEAR		0.00	0.00	

Source: CREG

Table 19: Balance sheet as at 31 December 2005 (€)

ASSETS	2005	2004
FIXED ASSETS		
Intangible and tangible fixed assets	280,995.60	360,936.02
IT and telephone equipment	70,774.23	104,330.41
Office furniture and decoration	70,180.34	97,812.95
Building refurbishment	140,041.03	158,792.66
Leasing	57,604.71	46,469.78
Leased equipment	57,604.71	46,469.78
Financial fixed assets	344.42	344.42
Various guarantees	344.42	344.42
CURRENT ASSETS		
Amounts receivable within one year	1,017,000.66	41,336.58
Trade debtors	210,026.42	683.09
Other amounts receivable	806,974.24	40,653.49
Cash at bank and in hand	128,031,929.58	189,017,492.82
CREG fund and mediation service	7,376,826.23	3,178,293.33
Social energy fund	12,473,101.38	12,045,568.02
Greenhouse gases fund	71,914,880.73	47,261,266.12
Denuclearisation fund	13,750,000.00	0.00
Protected customer fund electricity	15,723,960.22	15,970,000.00
Protected customers fund gas	3,156,386.29	6,639,999.99
Communes Fund	3,635,707.45	100,421,575.49
Cash	1,067.28	789.87
Accrued charges and deferred income	794,794.21	920,791.11
TOTAL ASSETS	130,182,669.18	190,387,370.73
LIABILITIES	2005	2004
CAPITAL AND RESERVES		
Profit brought forward	1,314,221.78	1,314,221.78
Provisions	510,000.00	365,000.00
Directors' employment agreements	510,000.00	365,000.00
CREDITORS		
Amounts payable at more than one year	2,016,414.66	1,858,887.80
CREG sector reserve	1,847,038.01	1,843,348.02
Leasing and other similar obligations	44,568.65	15,539.78
Debts payable within one year	126,466,840.74	186,849,261.15
Current portion of debts payable at more than one year	13,036.06	30,930.02
Mediation service sector reserve	124,808.00	0.00
Trade debts	2,250,773.92	2,253,945.24
Taxes, salaries and social charges payable	1,960,109.51	2,040,903.08
Various debts (social energy fund)	12,693,676.33	12,045,568.02
Various debts (greenhouse gases fund)	71,945,356.98	47,446,339.31
Various debts (denuclearisation fund)	13,750,000.00	0.00
Various debts (protected customers fund electricity)	15,728,985.85	15,970,000.00
Various debts (protected customers fund gas)	3,529,279.64	6,639,999.99
Various debts (municipalities fund)	3,638,760.45	100,421,575.49
Various debts (mediation service)	832,054.00	0.00
Accrued charges and deferred income	0.00	0.00
TOTAL LIABILITIES	130,182,669.18	190,387,370.73

Source: CREG

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