



# The Regulatory Authority for Electricity and Gas

Relazione 345/2013/I

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

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31<sup>st</sup> July 2013

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## 1 FORWARD

This document by the Regulatory Authority for Electricity and Gas of Italy provides the Agency for the Cooperation of Energy Regulators (ACER) and the European Commission with a report on the activities carried out and the duties performed pursuant to articles 37.1.e) and 41.1.e) of, respectively, Directives 2009/72/EC and 2009/73/EC.

The structure of this report, in accordance with the European Council of Energy Regulators' (CEER) definitions, was shared with ACER and the European Commission's Directorate-General for Energy.

The report analyses the main elements of structural evolution in two markets, electricity and gas, in terms of regulatory activities as well as the state of competition. The report also contains a description of recent legislative developments in the energy market and of the measures taken in regard to consumer protection and security of supply, in terms of aspects falling under the competence of the national regulatory authority.

The Authority I preside over firmly believes in the importance of the role and activities of national Regulators and their independence from other consolidated interests while regulating energy markets and infrastructures in order to promote competition and efficiency and to provide a sound defence for users and, in a special way, consumers in the electricity and gas markets.

At the same time, the Italian Authority strives to assert its own keen participation in the European framework of cooperation in the regulatory domain and with the bodies established for this aim, such as the European Commission, CEER and ACER, in order to make our own contribution to a fully-fledged and functioning single energy market that achieves integration by 2014.

We see this report as making a small but essential contribution to this overarching goal of integration. It is in this spirit that we are working with our sights set on 2014, the goal-year during which Italy will also be taking its turn in the European presidency: a happy coincidence for the launch of the integrated energy market.

Milan, 31<sup>st</sup> July 2013

THE PRESIDENT

Guido Bortoni

## 2 SUMMARY/MAIN DEVELOPMENTS IN THE ELECTRICITY AND GAS MARKETS IN 2012

### Developments in the electricity market

#### *Main regulatory developments*

The main developments in energy legislation during the year 2012 essentially concern the modification of the incentive mechanisms for electricity production from renewable energy resources, the laws on the special powers over corporate structuring in sectors of national strategic importance and the adoption of the National energy strategy (SEN - Strategia energetica nazionale).

The interministerial decree of 05<sup>th</sup> July 2012 defined the new incentives for photovoltaic energy (aka Fifth energy account) and the subsequent interministerial decree of 06<sup>th</sup> July 2012 redefined the incentives for renewable electricity sources other than photovoltaics. Each of these decrees simplifies the procedures for automatic access to the system for financing and resource acquisition by providing incentives for energy fed in to the grid and an extra bonus for self-consumed energy. The decrees also set annual ceilings of 6.7 billion euros for the incentive costs for photovoltaic energy and 5.8 billion euros for other renewable energy resources.

Decree-law no. 21 of 15<sup>th</sup> March 2012, converted with modifications into Law no. 56 of 11<sup>th</sup> May 2012, on the *Regulation of special powers over corporate structures in the defence and national security sectors and over strategically-important activities in the energy, transport and communications sectors*, normalized the national legal regulations in the golden share field with those of the European Union by attributing the executive branch with intervention powers for taking action to protect legitimate, essential and strategic national interests. In the face of an actual threat of serious damage to critical defence and security interests, the law provides for special powers that can be used, among other things, to impose specific conditions on the security of supply, to block corporate changes (such as mergers, splits, transfers, changes in company object, dissolutions) or the purchase, in any form, of shares in a company engaging in activities of strategic significance to the national security and defence system. In March 2013, this measure was completed with a *Decree scheme of the President of the Republic* that identifies the strategic sectors of the national energy system, including: the national gas transport network and related compression stations and dispatching centres, the sea-based gas pipeline network, the import and export pipelines and connected lines, the interregional gas pipelines, the pipelines connected with storage, the supply facilities for gas from non-member states of the European Union, the national power transmission grid and related control and dispatching facilities.

The definition of the SEN was concluded in 2012 and lays down a roadmap for Italy's energy policy over the coming decades. The SEN confirmed the desire to improve environmental standards and increase decarbonisation goals while simultaneously strengthening the security of supply through a focus on energy efficiency, the development of renewable energy sources and the creation of a new, fully integrated European market.

#### *Main regulatory developments*

In the electricity sector, the Authority adopted a variety of measures during the course of 2012, and the main ones can be summarized as follows.

In the unbundling domain, the regulatory simplification process that was planned should come to a conclusion by 31<sup>st</sup> December 2013.

Following the opinion issued by the European Commission pursuant to the Third Package, the certification process for Terna, as the manager of the electricity transmission system under the ownership separation regime, was brought to a conclusion as provided by Legislative Decree 93/11, which transposes Community directive 2009/72/EC into national law.

As for the efficient use and safety of network resources, a variety of measures were implemented to facilitate better management and guarantee safe transmission services, including: I) changes to Terna's network code that are designed to improve the dispatching services in response to the increasing penetration of renewable energy resources which cannot be planned; II) the institution of the possibility to identify the power plants essential to the electric system's security on a zonal basis (whereas the former method did so on a national basis).

The Authority also took several measures to modify the regulations on the quality of distribution services and electricity metering for the 2012-2015 regulatory period. In specific, it changed the standards for the maximum power restoration time for LV and MV users and the automatic reimbursement system in favour of the users.

The tariffs for the supply of transmission, distribution (including the commercial costs of the service itself) and electricity metering services were updated for year 2013, as were the economic terms and conditions for the supply of connection services (for regulatory period 2012-2015, in the latter case).

In 2012, the Authority proceeded to determine the degree to which the milestones for the national transmission network development interventions were achieved in 2011, confirming the recognition of a higher incentive for capital investment, of +2% for 12 years, for investments in the development of transport capacity that are designed to reduce congestion between market zones or to increase the Net Transfer Capacity on the electricity frontiers. The same measure established that higher incentives need to be recognized for the actual provision of the incremental capacity generated by the investment, and a mechanism was introduced for monitoring the state of progress of investments.

Responsibilities were redefined for the electricity metering service for the power produced by new generation facilities that entered into service after 27<sup>th</sup> August 2012, with the network operators being called on to assume responsibility for the collection, validation, registration and provision of metering for all facilities.

#### *International coordination*

After witnessing the positive results in terms of capacity allocation and price consistency, the Italy-Slovenia market coupling agreement was renewed for 2013. The new agreement provides for a new system for settling economic transactions that has the capacity to align the Italian and Slovenian payment schedules. As usual, this past year witnessed the Authority's close involvement in the activities of European working groups, mostly in regard to capacity allocation and congestion management, network connections and the safe management of electric systems.

#### *Wholesale and retail markets*

In 2012, the demand for electricity fell by 2.8% compared to the previous year. In specific, demand was equal to 305 TWh, down by slightly less than 9 TWh relative to 2011.

Total gross electricity production was about 295 TWh, down by 2.4% compared to 2011. The balance of trade was 43 TWh in 2012, according to Terna's provisional operating data,

representing the difference between 45,369 GWh (-4.5% from 2011) in imports and 2,281 GWh (+27.6% from 2011) in exports. In terms of net electricity generated, the Enel group's market share is still in decline, sliding to 25% in 2012 in comparison to 26% in 2011 and 27.5% in 2010. The growth in the competitive fringe is definitely worth noting, the share for which rose by over three percentage points to 29.6% in 2012.

The maximum net generation capacity installed as of 31<sup>st</sup> December 2012 was 124.2 GW, while the net capacity available (at least 50% of the time) was 106 GW. With respect to net capacity installed, three operators held market shares greater than 5%: Enel (31.1%), Edipower (6.5%), Edison (5.5). As for net capacity available (at least 50% of the time), five operators held market shares greater than 5%: Enel (35.2%), Edipower (7%), Edison (6.6%), Eni (5.4%) and E.On (5%). According to these figures, the percentage of capacity held by the top three operators was 48.7%.

In Italy, trading in electricity can be carried out through the conclusion of spot or futures sales contracts on the markets that are regulated and organized by the Gestore dei servizi energetici (GME, or Energy Markets Operator). In 2012, the demand for electricity in the day-ahead market (MGP – Mercato del giorno prima), which is used for dealing in energy through buy and sell bids for the next day, was equal to 298.7 TWh, down by 4.1% relative to 2011. The Power Exchange of Italy registered an average power purchase price of 75.53 EUR/MWh, up by 4.6% in relation to the year before. In the Intra-day Market (MI – Mercato infragiornaliero) during 2012, 16 TWh of power were exchanged during the first session and 6.2 TWh during the second. The average purchase price was 75.41 EUR/MWh in the first session and 74.87 EUR/MWh in the second session. As for the Ancillary Services Market (MSD – Mercato per il servizio di dispacciamento), official figures are available for 2012 in reference to the *ex ante* market, where Terna accepts buy and sell bids for power for purposes of resolving residual congestion and constituting reserve margins (thus excluding the purchases made for balancing). The upward bids were equal to 6.2 TWh, up by 31.3% relative to 2011. The accepted downward bids, alternatively were equal to 3.7 TWh, down by 25% compared to the previous year. In reference to futures markets, 13,262 contracts were traded in 2012 corresponding to 54.1 TWh of power, up sharply relative to previous periods (31.7 TWh in 2011 and 6.3 TWh in 2010). In terms of volume, 51.4 TWh were traded through baseload contracts and 2.7 TWh through peakload contracts. As for the average sales prices, a slight increase was registered in the spread between the highest and lowest zonal prices. The difference between the average price registered in Sicily (95.22 EUR/MWh) and in the Southern macro-region (70.35 EUR/MWh) was about 25 EUR/MWh, in fact, while in 2011 it was around 24 EUR/MWh.

Turning to an analysis of the retail market based on the provisional figures published by Terna, total consumption (at a net of losses) amounted to 264 TWh in 2012 (down by 4.2% relative to the level recorded in 2011). Compared to the previous year, consumption in the residential sector, at about 70 TWh, remained largely unchanged (+0.4%), while productive uses of electricity have fallen significantly. Industrial consumption fell by 5.9% (to 131.8 TWh), in fact, while consumption in the service sector fell by 0.7% (97 TWh) and agricultural uses decreased by 1, 8% (to 5.8 TWh). Sales to customers in the standard offer regime (26.5% of the entire market) amounted to about 69.9 TWh for nearly 28 million withdrawal points. Sixty-seven percent of the volumes were purchased by residential customers (around 47 TWh) representing 86% of the entire standard offer market (about 24 million) in numerical terms. In 2012, safeguarded categories involved around 113,000 withdrawal points, calculated with the *pro die* criterion, and withdrew about 5.1 TWh of power, down by 11% compared to 2011. As in previous years, the number of operators involved in the electricity sales rose to a total of 364 in 2012, thirty units more than in 2011.

According to the distributors' figures for 2012, the overall switching rate was 26.4% in terms of volumes distributed and involved 7.6% of all customers in the electricity market. Six point four percent of residential customers and 12% of non-residential customers switched suppliers. In terms of volumes withdrawn, the corresponding percentages climb to 8.3% and 31.4%, respectively. Customers connected at medium voltage exhibited greater fluidity. As for the free market, the number of active sales companies began growing again in 2012. There was a downturn, however, in the average unit volume of sales (829 GWh, in contrast to the 996 GWh for 2011). In the retail market, 2 corporate groups enjoyed market shares greater than 5%: Enel (20.3%) and Edison (9%), as Eni's share grew to 5%. The top ten operators (company groups) cover just over 61% of the final market. According to the still-provisional data gathered by the Authority, the average price for the supply of electricity across the entire free market was 113.06 EUR/MWh. This price was 104.25 EUR/MWh in 2011. The cost of the electricity supply for free-market customers (low voltage), therefore, grew by 8.5%. As for sales in the standard offer market, the average price in 2012 was 107.93 EUR/MWh, as compared to 97.05 EUR/MWh in 2011. The prices in this market thus increased by 11.2%.

In terms of complaints and reports, a total of 35,864 communications were fielded by the Energy Consumer Help Desk between 01<sup>st</sup> January 2012 and 31<sup>st</sup> December 2012: 19,993 for the electricity sector, or about 55% of the total. The most frequent subjects of the communications received in 2012 were as follows: billing (29%), market (18%), bonus (12%), contracts (17%), technical quality (11%) and connections (5%).

In 2012, the Authority identified the current issues in the final electricity and gas markets and issued recommendations for their competitive development and for consumer protection. These issues were the subject of reports submitted to Parliament and the Government on the energy market structures resulting from the incorporation of the 'Third Energy Package.'

## Developments in the gas market

### *Main regulatory developments*

The most important new development within Italian legislation is surely the unbundling ('vertical separation') of Snam<sup>1</sup> from the parent company Eni subsequent to Law no. 27 of 24<sup>th</sup> March 2012 and the decree by the President of the Council of Ministers of 25<sup>th</sup> May 2012. In 2012, the Authority had already completed the certification process for Snam Rete Gas as an independent transmission operator, thereby opting for the Independent Transmission Operator (ITO) model provided by directive 2009/73/EC. As illustrated in the Report that follows, the unbundling of Snam from the Eni group qualified Italy for the gas transmission management system under the ownership unbundling model.

Just as in the electricity sector, lastly, the SEN likewise constitutes a fundamental reference point for defining a roadmap for the future development of natural gas in Italy. More specifically, the SEN unveils the opportunity to become the primary southern European hub in the gas market.

### *Main regulatory developments*

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<sup>1</sup> On 1<sup>st</sup> January 2012, the old Snam Rete Gas company changed its company name to Snam and transferred its gas transmission business to a new company which named itself Snam Rete Gas. Snam now controls 100% of four different operating companies (Snam Rete Gas, GNL Italia, Stogit and Italgas). On 15<sup>th</sup> October 2012, the ownership was unbundled from the Eni group, which had sold about 30% of the Snam share capital to Cassa Depositi e Prestiti (a joint-stock company under public control).



In accordance with the provisions of Legislative Decree no. 93/11, which transposes directive 2009/73/EC, and following the opinion formulated by the European Commission, the Authority concluded the certification procedure for Snam Rete Gas as an independent transmission operator for natural gas. Once Snam had been unbundled/vertically separated from the Eni group, the Authority initiated another preliminary certification process for transmission system operators under the ownership unbundling model.

The Authority undertook various measures to change the previous rules for the balancing and regulation of physical consignments and economic transactions (settlement). In particular, due to the problem of balancing with storage capacity alone, the Authority introduced additional measures in search of greater management efficiency for cases when the supply capacity or storage injection might be insufficient to meet the system's balancing demands. These measures are reflected in more extensive disclosure obligations and stronger economic incentives for improving user management in the usage of storage capacity. With the same goal in mind, the possibility was introduced for the GME to implement the balancing platform through an additional session, in which Snam Rete Gas could intervene to request resources should the actual storage capacity ever be insufficient to cover the users' balancing needs on the basis of the transmission programs that were submitted. This additional market session also represents a first step in the same direction as envisaged by the European network code on balancing. Still on this same balancing issue, the Authority approved changes to the Network Code of Snam Rete Gas regulating the system of guarantees for covering the economic transactions of the users in the context of operations on the gas balancing platform (PB-GAS).

Regarding the settlement of the physical consignments and economic transactions, the Authority approved the *Consolidated text of provisions regulating the physical consignments and economic transactions of the natural gas balancing service*. The main aspects addressed in this text concern the conventional profiling of withdrawal, the responsibilities and obligations of all interested subjects and the introduction of additional settlement sessions.

The provision of transmission capacity at interconnection points with the storage sites was also modified by conferring the transmission capacity available at those points to the supply companies (and no longer to the users).

Still in reference to storage, the Authority introduced a regulatory revision concerning variable storage payments and technical consumption that provides for attribution procedures that consider the position of the storage service user in relation to the system. It also defined, for the first time in Italy, the organizational methods for the auctioning process used to confer storage capacity for thermal year 2013-2014 and which serves as the basis for assessing the peak service at the marginal price.

In the interest of the continued development of Italy's spot market, the Authority defined the methods to be used by the GME to access the PSV platform in order to register the gas market transactions concluded on this platform and the management procedures for the balancing service.

#### *International coordination*

From the perspective of integrating the European gas markets and increasing market liquidity and price alignment between the various countries involved, the Authority launched proceedings to integrate the methods that transmission companies can use to make unused capacity available on a daily basis at entry points interconnected with other countries.

In accordance with the *Guidelines* issued in agreement with E-Control (Austria's regulatory authority), measures were defined to provide a daily capacity allocation service, starting on 01<sup>st</sup> April 2013, between the Austrian exchange point and the Italian gas system, via Tarvisio, and to be implemented using the common European platform for cross-border capacity allocation that was established by Europe's primary transmission companies. Similar initiatives have also been launched for the interconnection points with Switzerland and Slovenia.

#### *Wholesale and retail markets*

The year 2012 was another negative period for natural gas consumption. According to the preliminary data issued by the Ministry of Economic Development, gross domestic consumption was 74.9 G(m<sup>3</sup>) last year, marking a 3.9% decline relative to the previous year. Final consumption fell to 72.9 G(m<sup>3</sup>), or 3 billion under the 2011 value and the lowest value since the year of this sector's liberalization. National production held steady at around 8 G(m<sup>3</sup>)/year in 2012. Net gas imports into Italy continued to decline in 2012, down by another 2.6 G(m<sup>3</sup>), falling from 70,245 M(m<sup>3</sup>) in 2011 to 67,586 M(m<sup>3</sup>). Four point six percent of all gas imports were purchased on the European exchanges. Italy's 90% dependence on foreign suppliers remained substantially unchanged in comparison to 2011. As in past years, the groups with a greater than 5% share of all gas supplied (i.e., produced or imported) were Eni, Edison and Enel, which collectively account for 78.2% of the total, up from 74.3% for 2011. These same three groups also hold more than 5% of the gas available, with shares similar to those for gas supplied. As an import entity with 29 G(m<sup>3</sup>) of imported gas and a 42.8% share, Eni leads in this category just as it does in national production. In effect, its preponderant share remains a full 25 percentage points above its closest competitor. Its share has grown since 2011, in contrast to previous years, when its share fell steadily in response to the Antitrust ceilings established by Legislative Decree no. 164 of 23<sup>rd</sup> May 2000, which has ceased effect since 2011. An analysis of active import contracts in 2012 based on their total duration reveals the continued importance of long term contracts: 65% of all imports, in effect, are based on contracts lasting more than twenty years, and another 25% are based on contracts with five to twenty year durations.

In 2012, the total demand in the gas sector, represented by the sum of gas volumes sold on the wholesale and retail markets plus self-consumption, was 176.1 G(m<sup>3</sup>). The wholesale market handled 101.1 G(m<sup>3</sup>) and the retail market handled 62.4 G(m<sup>3</sup>), with self-consumption accounting for 12.6 G(m<sup>3</sup>). The number of wholesalers rose slightly, climbing to 152 units, as compared to 143 units for the year before. In recent years the level of concentration in this market has declined steadily and remained under the 30% threshold since 2011. In 2012, the shares held by the three top companies - Eni, Edison and Enel Trade - add up to 27.9%, as compared to 28.1% for 2011 (and 31.1% in 2010). The share held by the top five, with Sinergie Italiane and GdF Suez Energia Italia added in, rose to 40.1%, as compared to 38.8% for 2011 (and 40.5% in 2010). The Herfindahl-Hirschman index for 2012 was 495 when calculated on the wholesale market alone in 2012, a value that remained essentially unchanged relative to the year before and lies well below the value of 1000, which is considered to be indicative of low concentration. The average price applied by companies operating primarily in the wholesale market in 2012 was 34.31 c€/m<sup>3</sup>.

At the end of 2011, a gas balancing platform run by the GME and known as PB-GAS entered into service, facilitating the transition from a "storage" balancing system based on a tariff regime which is determined and updated by the Authority, to a "market" system in which the price of this resource is determined by the intersection of the demand and supply for the stored gas. During its initial phase, the platform allowed Snam Rete Gas alone to manage the supply as the national network operator in its capacity as operator responsible for Balancing (RdB – Responsabile del Bilanciamento).

Not until 1<sup>st</sup> April 2012 was the market opened to all users of the transmission service. Users of the transmission service can use PB-GAS to supply themselves with the resources needed to manage their own balancing equation, enabling them to adjust their relative physical imbalances. Mandatory participation by the holders of supply capacity, along with the presence of Snam Rete Gas as the RdB, has enabled much more gas movement than witnessed in the other markets managed by the GME. The average price registered on PB-GAS in 2012 was 28.54 EUR/MWh, which is slightly lower than the average price on the PSV during this period, with traded volumes corresponding to 10,645 GWh in negative imbalance (bought by the RdB) and 22,471 GWh in positive imbalance (sold by the RdB).

The 308 operators in the final sales market reflected a 4 unit decrease in numbers relative to 2011. The total amount sold fell from 68 to 62.4 G(m<sup>3</sup>). The final sales market is still concentrated: the top 3 groups control 47.7% (still less than the 49.5% in 2011). As in the previous year, Eni's share increased once again in 2012, climbing from 26.6% to the current 28.1%. Eni is the prevailing group, moreover, and remains far ahead of the second operator, the Enel group, which holds only 10.9%.

The first provisional calculations on the data collected for the Authority's annual report on regulated sectors reveal that the final market for natural gas sales involved 21 million customers in 2012, 92.8% of which were residential, 0.9% in central heating, 5.2% in the sales and services sectors, 1.1% in the industrial sector, 0.004% in thermoelectric power generation, with roughly 90,000 users being associated with public service activities (this last category was defined by Legislative Decree no. 93/11). In terms of volumes, of course, the proportions tend to be inverted. The share of volumes purchased on the free market was 60%, on average, and shows a tendency to increase over time. It is normal, however, for this share to grow more and more as the gradual shift is made from sectors like residential to sectors for which gas constitutes an input to the productive process and where gas usage is more intense. The share of volumes purchased on the free market, in fact, was 16% for residential, 36% for central heating, 74% in sales and services, 96% in industry, 60% in thermoelectric (a value influenced by self-consumption) and 67% in public service uses.

The findings from the annual survey of regulated sectors also reveal that the 4.7% of all customers switched gas suppliers in 2012, or 45.2% when measured in terms of the gas volumes consumed by customers who made a switch. The details for these figures, with the differentiation of customers by sector and annual consumption class, show a residential switching rate of 4.5% in numerical terms for 2012, and 5.2% in terms of volumes. This figure, it should be remembered, follows on two years in which the level of switching between suppliers was already significant for a type of customer who had always, traditionally, shown great wariness about entering the free market (the rate sequence for past years, in fact, reveals the following switch values: 5.2% in 2011, 4.4% in 2010, 1.8% in 2009 and 1.1% in 2008, in terms of customers, and 5.7% in 2011, 4.8% in 2010, 2.4% in 2009 and 1.3% in 2008, in terms of volumes, respectively). Central heating has always been characterized by greater fluidity and the same holds true for the new category, public service activity.

The provisional analysis of the data collected during the Authority's 2012 Survey shows that the average gas price last year (weighted by the amounts sold) was 45.53 c€/m<sup>3</sup> on the final market after taxes. In 2011 this price was 39.24 c€/m<sup>3</sup>. Overall, therefore, the cost of gas in Italy has risen by 15.8%. Vulnerable customers with reference prices paid an average of 57.68 c€/m<sup>3</sup> for gas, while the average price paid by free market customers was 40.69 c€/m<sup>3</sup>. The price difference between the two markets, therefore, is about 17 c€/m<sup>3</sup>, which is up by about 1.5 c€/m<sup>3</sup> compared

to the year before due to faster growth in the average prices on the free market than on the market with a reference price (16.7% as opposed to 14.6%).

In the period from 01<sup>st</sup> January to 31<sup>st</sup> December 2012, the 35,864 communications fielded by the Energy Consumer Help Desk included 13,690 contacts related to the gas sector (about 38.1%). The number of communications fell by 23% compared to 2011, a decrease that is mostly explained by the burdens of overcoming the initial problems involved with the implementation of the gas bonus. Still in comparison to the previous period, the percentage of complaints rose slightly (96.7%) while information requests fell (3.297%). The percentage of reports held steady (0.01%), essentially, at an extremely low number in both numerical terms and percentagewise.

### Protection of consumers

Regulation by the Italian Authority in the field of consumer protection, as suggested in past Annual reports, is particularly well developed as a function of the specific protection duties already attributed to the regulator by founding law (Law no. 481/95) and subsequent integrations, which cover most of the measures envisaged by the directives.

In regard to the consumer protection measures (i.e., transparency of contracts and billing, automatic refunds, claims and smart meters) provided by Annexes A of the cited Directives, the Italian Authority has implemented these measures extensively by adopting a Code of commercial conduct (in 2006 for electricity, in 2008 for natural gas and combined since 2010), regulating the commercial quality of services, reconciliation procedures, exchange of information between sellers and distributors and the installation of smart meters in both sectors.

During 2012, the first phase of implementation of the Integrated Information System (SII – Sistema Informativo Integrato) was completed in order to help manage the information flows in the electricity and natural gas markets, and is based on a database of withdrawal points and identification data for end users in accordance with the previously outlined plan.

In relation to public service obligations and in addition to the activities of the consumer help desk, which was established in 2008 at the Single Buyer company for the management of complaints and information requests, the Authority took action in 2012 in order to strengthen the procedures for unsolicited contracts and introduce new mandatory disclosures for sales companies. When contracts are stipulated remotely or not at commercial sites, before the switching request can be presented to the distributor, the seller must always send a confirmation letter to the customer or, as an alternative restricted to sales that do not take place at commercial sites, contact the customer by telephone (confirmation call) to record their confirmation of contractual consent. These mandatory communications allow the customer to disown the contract, either immediately (confirmation call) or in writing (confirmation letter).

### Security of supply

Legislative decree no. 93/11, which transposes the measures of the Third energy package into the Italian system, attributes the competence for security of supply issues to the Ministry of Economic Development.

## 3 THE ELECTRICITY MARKET

### 3.1 Regulation of facilities and infrastructures

#### 3.1.1 Unbundling

During 2012, the Authority continued the activities it began in 2011 to adjust the current *Integrated Text on Unbundling* (TIU), which addresses the functional separation of the operators of gas transport and power transmission systems, by providing for a simplification of these measures in the electricity and gas sectors and extending them to the water services sector. As part of these activities, more specifically, the Authority issued a consultation document<sup>2</sup> that illustrates the initial guidelines for the following action measures, which include:

- a revision of the TIU provisions on the structure and content of the activities and departments involved in the electricity and gas sectors in light of the new developments in the legal framework and the new regulatory demands on the Authority itself;
- a simplification and rationalization of the Authority's data obligations, involving a revision of the thresholds for application of the ordinary regime and the simplified regime on separate accounting<sup>3</sup>, and the threshold defined for attribution of exemptions from the obligation to submit separate annual accounts;
- the purely bookkeeping related changes provided by the TIU for some provisions and designed to simplify the separation of accounting process and to improve the quality of the information to be submitted to the Authority.

In addition, the Authority issued<sup>4</sup> specific provisions regarding the separate accounting obligations for the Gestore dei servizi energetici (GSE - Energy Services Operator)<sup>5</sup>, the state-controlled company designated to incentivize and develop renewable energy resources and energy efficiency in Italy. The provisions, which enter into effect starting with financial year 2013, are designed to assure:

- the correct attribution of the costs sustained by the GSE in the management of its own activities;
- the absence of discrimination, or overlapping transfers of resources between the different activities carried out by the GSE;

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<sup>2</sup> Act 82/2013/R/com of 28<sup>th</sup> February 2013.

<sup>3</sup> These two regimes are differentiated by type and be detailed elements of the documents to be written and presented to the Authority. In specific, the ordinary regime calls for income statements, balance sheets and summary prospectuses of movements in fixed and unfixed assets, to be subdivided by individual activity and also presented separately with and without the value attributions related to joint services and shared transactions, as well as a commentary note to the separate annual accounts. For the simplified regime, an income statement broken down by activity, a summary prospectus of fixed and unfixed asset movements and a descriptive note of the documents are sufficient.

<sup>4</sup> Resolution 573/2012/R/com of 28<sup>th</sup> December 2012.

<sup>5</sup> The GSE provides the technical-engineering certifications and inspections for renewable energy and high-yield cogeneration plants, grants incentives for the electricity produced and fed in to the grid by such facilities, withdraws the electricity produced by incentivized plants, places it on the electricity market and certifies the origin of the electricity fed in to the grid as being from renewable energy resources. The company also evaluates and certifies the savings achieved by energy efficiency projects in the context of the white certificates mechanism, also known as "Titoli di Efficienza Energetica" (TEE - Energy Efficiency Credits) and promotes the production of thermal energy by renewable energy resources (Conto Termico, Thermal Account).

- the availability of information to be used for quantifying the capital invested by the GSE in order to carry out its activities and subject to remuneration by the electric system;
- a reliable, homogeneous and detailed information flow about the revenue and assets of the GSE in the different affairs it undertakes in order to adopt incentive-based regulations, even when based on multi-year efficiency recuperation goals;
- the separate accounting of activities subject to coverage by tariff component A<sub>3</sub> (the component that pays for the costs of incentives for renewable and assimilated resources) and other tariff components established by the Authority.

Lastly, the Authority adopted a measure<sup>6</sup> designed as an incentive for the prompt submission of information on the unbundling of regulated companies, taking precautionary measures that provide for the suspension of any contributions that might be due to these companies from the Electric Sector Compensation Fund (CCSE) until said companies submit their obligatory communications on the separation of functionality and accounting as called for in the TIU.

### Certification of the transmission system operator

Following the opinion issued by the European Commission pursuant to art. 3 of regulation EC 714/2009, the Authority concluded<sup>7</sup> the certification process for Terna to serve as the operator of the electricity transmission system under the ownership unbundling regime.

The point of this process was to verify this company's fulfilment of the requirements of the ownership unbundling regime pursuant to art. 9 paragraph 1 of Directive 2009/72/EC and as incorporated into the Italian system by Legislative Decree no. 93 of 01<sup>st</sup> June 2011, including:

- the independence of the operator's shareholders from any interests in electricity or gas supply or generation businesses;
- the fulfilment of all of the duties and responsibilities that the cited directive provides for network management;
- the ownership of all the transmission network assets (the facilities and infrastructures of the transport/transmission system and all of the capital goods for the performance of this activity);
- the independence of the members of the supervisory body and the administrative bodies of the operator;
- the respect of owners of parts of the transmission network for the obligations attributed to them by Legislative Decree no. 93/11;
- the decision-making capacity and autonomy in the drafting of ten-year development plans for the electricity transmission network;
- the capacity to process commercially-sensitive information confidentially and to publicize non-confidential information in a non-discriminatory manner;

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<sup>6</sup> Resolution 36/2012/E/com of 09<sup>th</sup> February 2012.

<sup>7</sup> With Resolution 531/2012/R/eel of 13<sup>th</sup> December 2012 and with Resolution 142/2013/R/eel of 05<sup>th</sup> April 2013 on final certification.

- the existence of confidentiality conditions, including contractual clauses, for the personnel of the company and its collaborators.

### 3.1.2 Technical regulations

#### Dispatching services

Consultation document 508/2012/R/eel<sup>8</sup> and Resolution 46/2013/R/eel<sup>9</sup> fall within the context of measures issued by the Authority in order to improve the efficiency of dispatching services. With consultation document 508/2012/R/eel in particular, the Authority expressed its guidelines in the following areas:

- selection methods and remuneration for the flexible services introduced by art. 34, paragraph 7-bis of Decree-law no. 83 of 22<sup>nd</sup> June 2012, “in order to ensure greater efficiency in the national energy infrastructures and to contain indirect costs derived from the growth in non-programmable renewable energy resources”;
- economic treatment of the energy supplied by production units for primary frequency regulation<sup>10</sup>.

In the first part of the document, the Authority responds to the increasing penetration of non-programmable renewable energy resources and suggests the need to launch a revision process for the ancillary services market (MSD). The aim of this revision is to ensure more efficient functioning in this market through the determination of more accurate and transparent price signals for the value of services provided, and in particular the flexibility services assured by authorized production units (see below, *Dispatch of electricity produced by electricity production units powered by programmable renewable energy resources*).

In the second part of the cited consultation document, the Authority introduces a proposal to revise the methods employed for the supply, measurement and utilization of primary frequency regulation. The amounts of energy associated with primary regulation actions (provided by the production units obligatorily) are currently assimilated as imbalances, and as such are subject to the possibility of related penalties. The Authority’s proposal calls for a sterilization of imbalance charges deriving from utilization of the primary reserve through precise detection of the local frequency value and each production unit’s contribution to primary frequency regulation. This would make it possible for the utilization of the primary reserve to be included within a binding but modified and correct program, and for the production units, to receive a less unfavourable price.

Another integral part of increasing the efficiency of the dispatching service is represented by Resolution 46/2013/R/eel<sup>11</sup>, in which the Authority examines and approves the changes and

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<sup>8</sup> Act of 29<sup>th</sup> November 2012.

<sup>9</sup> Resolution of 07<sup>th</sup> February 2013.

<sup>10</sup> Primary frequency regulation is implemented using a primary power reserve (i.e., by making a predetermined share of productive capacity available, not subject to market negotiation) and is a service that is essential to the system. It entails electricity usage that is: a) continuous and symmetrical at the work point in order to absorb frequency oscillations in the system (to maintain a balance between injections and withdrawals); b) directional, either increasing or decreasing, for the control of sub-frequency and supra-frequency transients (respectively) following system events (shutdowns of generation groups, for example).

additions to the Network Code that were proposed by Terna in the consultation that began in August 2012. The Authority views the following refinements to the Network Code in a positive light:

- the introduction of the change in rules offer for the combined-cycle thermo-electric production units and the extension of the access offer to open cycle gas turbine production units;
- the enlargement of the characteristic technical parameters of the production units through the introduction of a minimum out-of-service time for all thermo-electric production units, with the exception of open cycle gas turbines, the introduction of a specific start-up ramp per production unit, the introduction of specific ramp-up and ramp-down times per production unit;
- the modification of the algorithm used to calculate the payment for failure to comply with a start-up order;
- the modification of the methods for defining the need for the stand-by reserve to account for the contribution of the input by photovoltaic power plants;
- the modification of the schedule for activities associated with the programming of unavailability.

### Regulation of network safety and reliability

Facilities that are essential to the security of the power system are ones that are technically and structurally indispensable for the resolution of network congestion and for maintaining adequate security levels for the national power grid over significant periods of time. These facilities are substantially paid through the ordinary regime (i.e., through the tariff system) or through the reintegration of variable costs (in which case the owner of the facility may also request prepayment).

Resolution 180/2012/R/eel<sup>12</sup> reformulated the timing of the annual scheduling procedures for out-of-service time for electricity generation facilities and transmission networks. This particular measure was designed to improve coordination between the procedures for identifying groups of facilities that are essential to electrical system security and the annual procedures for scheduling down time for electricity generation capacity and network components. The measure is also intended to enable the Authority to provide timely forecasts of pivotal circumstances<sup>13</sup> for purposes of issuing providing the Ministry for Economic Development with a report on the functionality of the energy markets, as provided by art. 3, paragraph 10-ter of Law no. 2 of 28<sup>th</sup> January 2009.

With Resolution 180/2012/R/eel, more specifically, the Authority establishes that Terna is required to define, based on the information set it provides every year in July (31<sup>st</sup>): the elements to submit to the Authority in order to determine the contractual parameters for the alternative regimes for essential facilities; the content of the notifications of essential minimal groupings; the forecasts of the pivotal circumstances predicted by the TIMM; the annual provisional measure on out-of-service times.

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<sup>11</sup> Resolution of 07<sup>th</sup> February 2013.

<sup>12</sup> Resolution of 08<sup>th</sup> May 2012.

<sup>13</sup> Refer to paragraph 7.1 of Resolution ARG/elt 115/08 of 05<sup>th</sup> August 2008, which approves the Integrated text on monitoring the wholesale electricity market and the Ancillary services market (TIMM).



On the other hand, the Authority made changes to the timing for:

- sending Terna the out-of-service requests from the proprietors of the national transmission system (RTN), the network operators with obligatory third-party connections (other than the RTN) and the users of ancillary services;
- Terna's adoption of the annual provisional measure on out-of-service times;
- Terna's submission to the Authority of the forecast of pivotal circumstances.

To identify the essential facilities and their groupings, Terna delineates the system's most significant functional structures on an annual basis<sup>14</sup> expected during the next calendar year. Recent developments in the electricity market, which has felt the significant impact of the penetration of renewable resources into electricity generation, have meant that more detail is needed to define the cited structures. Resolution 298/2012/R/eel<sup>15</sup>, gave Terna the power to configure up to ten structures for each cluster of geographic zones and that are relevant for defining the demand for secondary and tertiary reserves (peninsula, Sicily and Sardinia), rather than for the entire national territory, as provided prior to the entry into effect of the mentioned measure.

With Resolutions 298/2012/R/eel<sup>16</sup>, 400/2012/R/eel, 517/2012/R/eel<sup>17</sup>, and 582/2012/R/eel<sup>18</sup>, the Authority also:

- modified the values for the admissible variable cost components for each essential production unit for years 2011, 2012 and 2013, based on the motivated applications presented to Terna by the relevant users of dispatching services;
- simplified the calculation method for the admissible variable cost component for covering the imbalance payment;
- for year 2013, identified the technology-fuel component and the values of the standards for each essential unit, i.e., the standard yield, the emission standard and the standard for the disposal component<sup>19</sup>;
- selected temporarily as the reference product for revaluing the emission shares of the *Emissions Trading Scheme* during the third phase of this system.

### Network connection times

The Integrated text on the regulation of service quality in the distribution and metering of electricity (TIQE) currently in effect for regulatory period 2012-2015 sets specific standards for LV and MV connections to the electricity distribution grids. In specific, the regulations provide:

- maximum time limits of 20 work days on the LV network and 40 work days on the MV network for providing cost estimates for the execution of works;

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<sup>14</sup> A functional structure is a coordinated functional configuration of the generation groups associated with a single production unit.

<sup>15</sup> Resolution of 19<sup>th</sup> July 2012.

<sup>16</sup> Resolution of 04<sup>th</sup> October 2012.

<sup>17</sup> Resolution of 06<sup>th</sup> December 2012.

<sup>18</sup> Resolution of 28<sup>th</sup> December 2012.

<sup>19</sup> This variable cost component covers the cost of additives, chemical products, catalysts, disposal of waste and combustion residue and eco-taxes.

- maximum execution times of 15 work days for simple works on the LV network and 30 work days on the MV network;
- a maximum supply activation time of 5 work days;
- a maximum supply deactivation time of 5 work days at the request of an end user on the LV network and 7 work days on the MV network;
- a maximum supply reactivation time of one weekday following a suspension due to late payment.

With Resolution 294/2012/R/eel<sup>20</sup>, following the dedicated consultation, the TIQE was updated to provide more stringent standards specific to temporary connections<sup>21</sup>.

The figures on the connections of active and passive users are presented below<sup>22</sup>. The first are the requests by electricity generation facilities to connect the transmission or distribution networks, mostly to enable these facilities to inject power into the electrical system; the second, alternatively, are the requests by end users of the transmission or distribution networks to enable power to be withdrawn from the electric system.

In 2012, Terna received 176 requests for electricity generation facilities to connect to the transmission network, corresponding to a total power of approximately 6.7 GW, and during the same year it issued 133 estimates, corresponding to a total power of about 5.4 GW, with an average of 37 work days, as a net of permissible interruptions, being required to provide each estimate. Sixty-nine of the estimates that were issued were accepted in 2012, corresponding to a total power of about 3 GW, and only one of these, corresponding to 1 MW, involved the presentation of a Minimum detailed technical solution (STMD), which was made available in 16 work days, as a net of permissible interruptions, and accepted by the requestor of the connection. In 2012, furthermore, Terna made no connections in relation to connection requests for any electricity generation facilities that had presented a connection request during the same year.

Regarding the connection of electricity generation facilities to distribution networks, the distribution companies received just under 195,000 connection requests to connect electricity generation facilities to low or medium voltage networks in 2012, corresponding to a total power of just under 7.6 GW; in the same year it also issued about 180,000 estimates, corresponding to a total power of about 6.5 GW, with average times required to provide estimates, as a net of permissible interruptions, of:

- 18 work days, for requested feed-in powers of up to 100 kW;
- 39 work days, for requested feed-in powers from 100 kW up to 1,000 kW;
- 52 work days, for requested feed-in powers greater than 1,000 kW.

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<sup>20</sup> Resolution of 19<sup>th</sup> July 2012.

<sup>21</sup> Connections are considered to be temporary when they are expected to last less than one year, renewable for an additional year, except for temporary connections dedicated to worksites. The duration for worksites is 3 years, renewable for an additional 3 years, in conformity with the building concessions issued to the users in question.

<sup>22</sup> The figures on the connection of active users to the transmission network, as presented here, refer exclusively to the activities carried out by Terna, while the figures on the connections of active users to distribution networks refer exclusively to the activities of distribution companies with over 100,000 customers. The connections of passive users, lastly, were collected by Terna and by the distribution companies as part of the regular *Surveys on regulated sectors* conducted each year by the Authority.

Slightly less than 150,000 of the estimates that were made available were accepted in 2012, corresponding to a total power of approximately 3.5 GW.

Approximately 120,000 connections were made in 2012, corresponding to about 1.9 GW, with average connection setup times, as a net of permissible delays, of:

- 16 work days for simple works<sup>23</sup>;
- 40 work days for complex works<sup>24</sup>.

In 2012, the only distribution company that received any connection requests for connecting electricity generation facilities to high voltage networks was Enel Distribuzione, which received 40 connection requests corresponding to a total power of just over 910 MW, and in the same year it issued 24 estimates corresponding to a total power of just under 490 MW, with 49 work days as the average estimate provision time, as a net of permissible delays. Thirteen of the issued estimates were accepted last year, corresponding to a total power of about 250 MW, and no request for the issue of an STMD were presented for any of these; in 2012, consequently, no connections were made for any connection requests to connect electricity generation facilities to high voltage networks that had presented a connection request during the same year.

Regarding the trends in passive user connections in 2012, on the basis of preliminary estimates, the data that was gathered shows that just over 300,000 connections to the distribution network were made, almost all of these at low voltage. The average time required to make these connections was 12.6 work days. The average time for setting up low voltage connections in particular was just under nine work days. Terna set up one passive user connection with a completion time of 30 work days, not counting any time required to obtain permits and authorizations.

**Table 3.1 Number of passive user connections to the distribution grid and average attachment time in 2012<sup>(A)</sup>**

VOLTAGE LEVEL	NUMBER OF CONNECTIONS	AVERAGE TIME (WORK DAYS) <sup>(A)</sup>
Low voltage	298,180	8.7
Medium voltage	2,254	20.7
<b>TOTAL</b>	<b>300,434</b>	<b>12.6</b>

(A) Value calculated without counting those without connections, excluding any time required to obtain permits and/or satisfy end user requirements.

Source: Annual survey of regulated sectors.

### Regulation of the technical quality of services

The Authority carries out a comprehensive review of tariff regulations and quality of service every four years. The tariffs and the regulation of service quality need to be revised in parallel because

<sup>23</sup> Simple works include setup, modification or replacement according to industry standards of the network operator facility, executed through an action limited to the attachment and possibly a metering unit.

<sup>24</sup> Complex works include the setup, modification or replacement according to industry standards of the network operator's facility in any and all cases not defined as simple works.

of the need to provide regulated companies with stimuli that are designed to guarantee adequate levels of service quality through the deterrence of cost cutting that would be detrimental to the quality of services being provided.

The Integrated text of regulating the quality of electricity distribution and metering services for regulatory period 2012-2015 (TIQE), approved with Resolution ARG/elt 198/11<sup>25</sup>, promotes improvements in the quality and continuity of electricity distribution services.

With Resolution 336/2012/R/eel<sup>26</sup>, the Authority updated this particular measure in terms of the maximum standard power restoration times for LV and MV users, identifying outages in a user's withdrawal or feed-in point that are caused by orders by public authorities in regard to ascertainties inherent to the user facility or the user itself as being included among the causes for disqualifying such users from automatic reimbursement.

Following the appropriate consultation, carried out with Resolution 452/2012/R/eel<sup>27</sup>, the Authority also updated, with Resolution 551/2012/R/eel<sup>28</sup>, the TIQE in terms of the classification of second-level causes of outages to include scheduled interruptions resulting from requests by users or by third party subjects of the distribution network and outage causes resulting from the activities scheduled by the distribution company for purposes of improving the efficiency of the Authority's analytical activities on the occasion of inspection checks.

Resolution 311/2012/R/eel<sup>29</sup> set annual improvement goals (trend levels) for the continuity of the electricity distribution service during the 2012-2015 period and defined the districts subject to special incentives and the districts subject to a gradual reduction of incentives. The improvement goals involve Enel Distribuzione and 28 other energy distribution companies.

The aim of voltage quality regulation is to reduce differences in performance across the distribution networks in the entire country and to provide reliable, comparable and verifiable quality indicators; this makes it possible to provide adequate information to the users affected by voltage quality disturbances and to constitute a starting point for providing and publishing information and the subsequent introduction of regulatory incentive factors.

In accordance with the provisions of point 4 of Resolution ARG/elt 198/11<sup>30</sup>, in February 2012 the Authority established a working group coordinated by the Energy System Research (RSE) company and involving the participation of distribution companies and Terna. It aims to define the technical specifications for voltage quality monitoring equipment on the MV networks and to determine the criteria for attributing the origin of any voltage dips registered on the MV bus bars of the primary substation.

On the issue of voltage dips (or drops in network voltage that do not result, however, in a complete outage, in contrast to blackouts), with Resolution 136/2012/R/eel<sup>31</sup>, the Authority aligned the TIQE definitions for voltage dips and blackouts with those found in the most recent version of standard CEI EN 50160.

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<sup>25</sup> Resolution of 29<sup>th</sup> December 2011.

<sup>26</sup> Resolution of 02<sup>nd</sup> August 2012.

<sup>27</sup> Act of 31<sup>st</sup> October 2012.

<sup>28</sup> Act of 20<sup>th</sup> December 2012.

<sup>29</sup> Resolution of 26<sup>th</sup> July 2012.

<sup>30</sup> Resolution of 29<sup>th</sup> December 2011.

<sup>31</sup> Resolution of 05<sup>th</sup> April 2012.

With Resolution 336/2012/R/eel<sup>32</sup>, the TIQE was updated by prescribing the application of the CEI 8-6 standard on power supply voltages in the LV distribution networks.

With regard to the electricity transmission service, Resolution no. 341/07<sup>33</sup> disciplined service quality regulation for the 2008-2011 period and introduced, for 2010-2011, both an adjustment incentivizing the reduction of unused energy through an indicator calculated on a national basis, and the number of outages per user through an indicator calculated for each of Terna's eight territorial operations areas.

In regard to regulatory period 2012-2015, Resolution ARG/elt 197/11 confirmed the unused energy indicator calculated on a national basis but eliminated the indicator for number of outages per user. The latter indicator was replaced with an individual adjustment for RTN users that is still under development.

Resolution 435/2012/R/eel<sup>34</sup> defined the annual improvement goals for the unused energy indicator with respect to the 2012-2015 period.

Resolution 492/2012/R/eel<sup>35</sup> introduced regulations for the checks and controls of the continuity data submitted by Terna, with specific reference to the ascertainment of correct causal attribution and the unused energy calculation for single power outages subjected to controls. The regulations provide for reductions in bonuses and increases of up to 50% in penalties for differences of greater than 30% between the value submitted for the unused energy indicator and this same indicator as determined during the controls.

### Regulation of commercial service quality

The Integrated Text on Electricity Quality (TIQE) also regulates the commercial quality of distribution and metering services in reference to services requested by users. The provisions provide for general and specific quality standards with automatic compensation that is obligatory for distribution companies and designed to protect the users and foster an average overall improvement of services on a national scale.

Resolution 551/2012/R/eel<sup>36</sup>, following the publication of consultation document 452/2012/R/eel<sup>37</sup>, updated the TIQE on the issue of the standards for verifying the voltage being supplied at the user's request and the restoration of the correct value for the supply voltage.

The new regulations provide that the distributor need not verify the supply voltage at the user's request if the distributor already knows that the value of the supply voltage value on the line powering the user that made the request does not fall within the limits defined by the CEI 8-6 standard. In this case, the time period allowed for the distributor to restore the correct voltage value starts on the date the request was received from the user, and not on the date the user is provided with documentation of the outcome of the verification.

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<sup>32</sup> Resolution of 02<sup>nd</sup> August 2012.

<sup>33</sup> Resolution of 27<sup>th</sup> December 2007.

<sup>34</sup> Resolution of 25<sup>th</sup> October 2012.

<sup>35</sup> With the Resolution of 22<sup>nd</sup> November 2012.

<sup>36</sup> Resolution of 20<sup>th</sup> December 2012.

<sup>37</sup> Act of 31<sup>st</sup> October 2012.

### Safeguard measures for the electric system

Article 4 of Legislative Decree no. 93/11 defines the measures to be implemented by the Ministry for Economic Development in case of a sudden crisis in the energy market and in response to threats to the physical integrity or safety of persons, as provided by art. 42 of Directive 2009/72/EC. Art. 43.3, lett. c) of this decree assigns the Italian regulatory authority to supervise the application of these measures by the operator in accordance with the provisions of art. 37.1, lett. t) of Directive 2009/72/EC.

Terna's Network Code, furthermore, which was issued in accordance with the instructions provided by Resolution no. 250/04 and approved<sup>38</sup> by the Authority, contains several measures that are designed to ensure the safe management of ancillary services (also through the availability of interruptible services for industrial uses with and without prior notice) and the safeguarding and security of the electric system through the activation of the Emergency plan for the security of the electric service (PESSE)<sup>39</sup> and of the electric network defence Plan.

The PESSE, which was prepared in order to ensure the safe management of the electric system and avoid the risk of widespread blackouts, provides for detachment with prior notice and with rotation of widespread medium and low voltage usage<sup>40</sup> and, for the evening hours, industrial uses not involving contracts containing a non-interruptibility clause. In some cases the electric network defence plan provides for detachment with prior notice based on the widespread rotation of users and other preventive measures specifically designed to ensure secure management of the system.

The Network Operator's communications of information concerning the implementation of the PESSE, the instruments of the electric network defence plan and interruptibility with or without prior notice are communicated to the Authority and the Ministry for Economic Development on a regular basis.

Wherever it deems necessary, the Authority may launch specific investigations and possibly, when suggested by the investigative findings, special fact-finding investigations. In 2012, no activates of this kind were initiated.

### Connections to the networks of generation facilities - Definition of new instruments for overcoming the problem of virtual saturation of the electric networks

In May of last year, the Authority once again intervened<sup>41</sup> to define the tools for overcoming the problem of virtual saturation of the electric networks. This problem arises when connection estimates are accepted but are not followed up by actual construction of the electricity generation

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<sup>38</sup> The network operator submits the network code to the Authority to verify the compliance of its contents with the Authority's own provisions and in order to guarantee free access to all network users under the conditions of equality, impartiality and neutrality of ancillary and transmission services, in the pursuit of safety, cost-effectiveness and efficient utilization of resources. The network code enters into effect after a positive verification is received from the Authority and from the Ministry for Economic Development, pursuant to article 1, paragraph 4 of DPCM 11<sup>th</sup> May 2004.

<sup>39</sup> The PESSE, which forms Annex 20 of the Terna Network Code that is currently in effect, was approved on 01<sup>st</sup> July 2005.

<sup>40</sup> Residential end users with serious health conditions and documentation of the use of electromedical devices needed to keep them alive according to the procedures of the "electric bonus" norms (Decree 28<sup>th</sup> December 2007 of the Ministry for Economic Development and Regulatory Authority for Electricity and Gas Resolution ARG/elt 117/08), are not interruptible, as a rule, for purposes of the PESSE. This type of customer may be still be detached for the time strictly required when this is indispensable for implementation of the PESSE; if this will take place, they will receive a personalized advance notice (art. 3 Resolution AEEG ARG/elt 117/08 and subsequent modifications and integrations).

<sup>41</sup> Resolution 226/2012/R/eel of 28<sup>th</sup> May 2012 (followed by the related implementation provisions with Resolution 328/2012/R/eel of 26<sup>th</sup> July 2012).

facilities. Virtual saturation of the networks, which is particularly common in certain Centre-South regions, constitutes an actual barrier to the entry of new operators who, in some cases, build generation facilities but are unable to obtain a connection in a short amount of time, even though the network's saturation only exists "on paper." A variety of causes can lead to this problem: on the one hand, some producers may be presenting connection requests and accepting estimates for higher powers than they actually intend to create, in order to initiate multiple authorization procedures in parallel so that at least one might be concluded more quickly; on the other hand, some of the accepted estimates might be used in trading for speculative purposes.

The new action by the Authority follows up on the suspensions, which are awaiting final judgment, issued by the Council of State in relation to compensation for the reservation of network capacity, which was introduced earlier. In August 2010 and December 2011, in fact, the Authority provided that applicants, other than residential end users, in the case of generation facilities seeking to connect to a critical line or in a critical area<sup>42</sup> must pay the network operator a fee, upon acceptance of the estimate, in order to reserve the network capacity. This fee was also applied to connection requests that had already been submitted to the network operator, because otherwise the virtual network saturation problem would have been neither solved nor attenuated.

The current regulations in effect provide for the reservation of network capacity to occur at the end of the authorization procedure for building and operating the generation facility.

### **Dispatching of electricity generated by electricity production units powered by non-programmable renewable energy resources**

Dispatching priorities within the national electric system are regulated by Resolution 168/03 and 48/04. The priority in terms of merit order, at equal offering prices, for ordering the offers for purposes of market resolution, applies to: bids for units that are essential to security during the hours they are declared to be indispensable; bids for units powered by non-programmable renewable energy resources; bids for units powered by programmable renewable energy resources; bids for co-generation production units; bids for CIP6 units; sales offers for production units powered exclusively by national sources of primary combustible energy, for a maximum annual share of no more than fifteen per cent of all the primary energy needed to generate the electricity that is consumed; bids related to bilateral contracts. The dispatching priority does not represent a guarantee of dispatching.

In 2012, the Authority revised the rules on dispatching services for renewable energy resources with the goal of satisfying the most urgent necessities of such resources and by non-programmable ones in particular.

In terms of the needs to expand the operating frequency interval for all distributed generation facilities that was aligned to the frequency provided for facilities connected directly to the RTN, the Authority intervened<sup>43</sup> by approving, among other things, Annex A70 to the Terna's Network Code, containing the *Technical regulation of system requirements for distributed generation* and defining an appropriate time frame for its rapid implementation by distinguishing between new construction and existing facilities.

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<sup>42</sup> Critical lines and areas are identified based on the criteria defined by the Authority (for low and medium voltage connections) and by Terna (for high and extra-high voltage connections).

<sup>43</sup> Resolution 84/2012/R/eel of 08<sup>th</sup> March 2012.

In regard to the need to promote a wider distribution of responsibility among the users of dispatching for facilities powered by non-programmable renewable energy resources, the Authority defined<sup>44</sup> the first regulations on dispatching services also for production units powered by non-programmable renewable energy resources. This is the first step towards the application of the principle of the correct attribution of costs to those who contribute to generating them. An initial transition period was defined (in effect since 01<sup>st</sup> January 2013), more specifically, during which a grace period was applied in which imbalances would continue to be valued at the hourly zonal price (therefore with related costs allocated to the collectivity) in order to guarantee the necessary gradualness in the management of generation facilities, notwithstanding the need to come rapidly to a standard condition that is as cost reflective as possible. This grace period is not differentiated by source and was set at 20% of the modified and corrected binding schedule of the dispatch point for semester one of 2013, while it is 10% of the modified and corrected binding schedule of the dispatching point for semester two of 2013. The new regulation applies to the users of dispatching. When the dispatching user is the GSE, who deals with incentivized energy<sup>45</sup>, the imbalance payments are only passed on to the producers in cases of dedicated withdrawal and the new incentivized tariffs, as provided by the inter-ministerial decrees of 05<sup>th</sup> and 06<sup>th</sup> July 2012 for facilities with up to 1 MW in power.

Lastly, actions are currently being implemented as needed to satisfy the needs arising from a more general review of the current dispatching rules to account for the new structural and market context. The goal here is to promote the greater spread and diffusion of distributed generation and non-programmable renewable energy resources by optimizing on network management and guaranteeing security.

### 3.1.3 Network access and connection tariffs

#### State of the incentives for renewable and assimilated energy resources

In 2012, a gradual increase in the financial requirements of the account for new renewable and assimilated energy sources facilities was confirmed (account A<sub>3</sub>).

While updating the tariffs for the distribution service for the second quarter of 2012, the Authority thus found it appropriate to defer<sup>46</sup> the adjustment of the component used to finance the incentives for renewable and assimilated energy sources A<sub>3</sub> in order to permit for a more in-depth evaluation of the costs for 2012 and to provide the competent ministries with adequate advisory support while assessing the future prospects of the costs of this account. This adjustment was then applied with Resolution 158/2012/R/com<sup>47</sup>.

Subsequent to the analysis that was promoted in the context of the postponement of the tariff adjustment, a new legal framework was outlined, with the approval and issue of inter-ministerial decrees of 05<sup>th</sup> and 06<sup>th</sup> July 2012, for developing the incentives for renewable energy resources within a more sustainable and predictable program. Despite this action, the costs for account A<sub>3</sub>

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<sup>44</sup> Resolution 281/2012/R/efr of 05<sup>th</sup> July 2012.

<sup>45</sup> The GSE is the subject who withdraws energy produced by facilities powered by renewable and/or assimilated energy sources, and thus incentivized through the various mechanisms used in Italy (CIP6, dedicated withdrawal, on-the-spot trading, fixed comprehensive tariff). The costs of the incentives for this energy are repaid through a specific tariff component known as A<sub>3</sub>.

<sup>46</sup> Resolution 114/2012/R/com of 30<sup>th</sup> March 2012.

<sup>47</sup> Resolution of 26<sup>th</sup> April 2012.



were predicted to grow further in 2013, as compared to 2012, while the accumulated deficit for this account A<sub>3</sub> in relation to the competences for years prior to 2012, mostly formed in the 2009-2011 period, was estimated at over 1.5 billion euros.

In addition, the demand for electricity registered a negative trend in 2012 as compared to the previous year, with a consequent reduction in revenue from the tariff components directly applied to consumption.

With Resolution 383/2012/R/com, therefore<sup>48</sup>, the Authority provided for a gradual adjustment schedule, in effect from 01<sup>st</sup> October 2012 through end of 2013, for the value of tariff component A<sub>3</sub> and involving quarterly increases in the unit rates for this component to encourage a higher annual revenue of 400-450 million euros. This served to ensure coverage for the charges against account A<sub>3</sub> for year 2013 and to achieve, in the same year, a revenue sufficient to compensate for the deficit accumulated prior to 2012.

This program was carried out with the subsequent Resolutions 581/2012/R/com<sup>49</sup> and 123/2013/R/com<sup>50</sup>, which provided for higher increments than those first hypothesized in Resolution 383/2012/R/com, so as to account for the worsening of financial forecasts for 2013 and the further contraction in electricity consumption registered in the first months of 2013.

Table 3.2 summarizes the charges against account A<sub>3</sub> in 2012 (preliminary data) as compared to 2011. As shown in the table, the weight of the costs for the different forms of incentives for renewable energy resources compared to the total costs bearing on account A<sub>3</sub> increased in relation to the previous year. We also note an increase in the weight of the costs for incentivizing the energy produced by photovoltaic power plants.

**Table 3.2 Evolution of costs for new facilities using renewable and assimilated energy sources**

CHARGES OF COMPETENCE	2011		2012	
	VALUE	% SHARE	VALUE	% SHARE
Sales of electricity from renewables CIP6	525	7.3	485	4.8
Withdrawal of green certificates	1,352	17.1	1,352	13.7
Photovoltaic	3,883	49.8	6,292	62.0
Dedicated withdrawal	238	1.7	158	1.6
Comprehensive tariff	477	5.9	726	7.2
GSE operation and other	33	0.4	34	0.3
On-the-spot trading	24	1.6	76	0.8
<b>TOTAL RENEWABLES</b>	<b>6632</b>	<b>83.7</b>	<b>9163</b>	<b>90.3</b>
Sales of electricity by assimilated CIP6	701	8.9	672	6.6
Charges CO <sub>2</sub> assimilated	265	3.4	198	2.0
Coverage of green certificates assimilated	40	0.5	43	0.4
Resolution CIP6	216	2.7	71	0.7
<b>TOTAL ASSIMILATED</b>	<b>1,291</b>	<b>16.3</b>	<b>985</b>	<b>9.7</b>
<b>TOTAL COSTS A<sub>3</sub></b>	<b>7,923</b>	<b>100.0</b>	<b>10,148</b>	<b>100.0</b>

<sup>48</sup> Resolution of 27<sup>th</sup> September 2012.

<sup>49</sup> Resolution of 28<sup>th</sup> December 2012.

<sup>50</sup> Resolution of 28<sup>th</sup> March 2013.

### Tariff for transmission services

With Resolution 565/2012/R/eel<sup>51</sup>, the Authority updated the tariffs for the supply of electricity transmission services for year 2013, on the basis of the tariff regulation criteria approved with Resolution ARG/elt 199/11<sup>52</sup>, which:

- set 7.4% as the rate (real pre-tax) of yield on recognized invested capital for the electricity transmission service;
- introduce a corrective to the remuneration rate, equal to 1%, in order to compensate for the financial effects of regulatory lag in the recognition of new investments;
- determine the recognized invested capital based on the revaluated historic cost criterion by considering a parametric reconstruction of asset growth realized prior to year 2004 and the asset growth resulting from the investments made for subsequent years;
- include only projects that are strategic for the national energy system in the stronger incentives category, although restricting the incentives to the acceleration of investments and in compliance with the deadlines for the completion of works, with the goal of more responsibility into the hands of the operators with respect to timely completion of the actions;
- determine the recognized operating costs for 2013 by starting with the effective costs sustained in 2010, taking into account the share of the value of the greater efficiency achieved by the businesses during the second and third regulatory period but not yet transferred to the users. The X-factor productivity recuperation factor was set at 3% for the fourth regulatory period to make it possible to recuperate the greater efficiencies achieved by businesses during the second regulatory period by the year 2015 and those achieved during the third period by 2019;
- articulate the tariff for covering transmission costs through a binomial structure (power/energy) that makes reference to both the tariff applied by the operator of the transmission system at the points of interconnection with the distribution networks and the tariff payment for covering the transmission costs applied to end users connected at high and extra-high voltage.

In addition, with Resolution 228/2012/R/eel<sup>53</sup> the Authority proceeded to ascertain the state of achievement of the intermediate goals (milestones) for National Transmission Network (RTN) development measures for year 2011, approved with Resolution ARG/elt 130/10<sup>54</sup>, i.e., confirming the recognition of the incentives on fixed assets in effect as of 31<sup>st</sup> December 2010 and in relation to investment type I=3<sup>55</sup>, already included in the 2012 transmission tariffs. The Authority in specific verified that 20 of a total of 21 milestones that were checked were considered to have been achieved, for a weighted value of 99% milestone achievement.

With Resolution 40/2013/R/eel<sup>56</sup>, the Authority thus proceeded to identify RTN development actions of type I=3 for the 2012-2015 period that were strategic for the national electric system

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<sup>51</sup> Resolution of 20<sup>th</sup> December 2012.

<sup>52</sup> Resolution of 29<sup>th</sup> December 2011.

<sup>53</sup> Resolution of 31<sup>st</sup> May 2012.

<sup>54</sup> Resolution of 05<sup>th</sup> August 2010.

<sup>55</sup> Investment type I=3 includes: investments in developing transport capacity designed to reduce congestion between market zones or to increase Net Transfer Capacity (NTC) on the electric frontiers, the extra remuneration is 2% for 12 years.

<sup>56</sup> Resolution of 31<sup>st</sup> January 2013.

and related milestones and objective dates in a manner consistent with the selectivity principle and in specific reference to measures designed to resolve the main congestions found in the Italian electric system. With the same Resolution, the Authority also:

- updated the rules on the incentives used to accelerate strategic investments in RTN development as referred to in the TIT, in order to focus the incentive mechanism more on preparing the electric system for the incremental transmission capacity deriving from network development actions and to clarify the different incentive regimes for main works and accessory works;
- established a mechanism for monitoring the state of progress of the RTN development actions, the achievement of the related milestones and the related costs being sustained.

With the same Resolution, the Authority provided to subordinate the recognition of the incentive designed to accelerate investments on fixed assets under way as of 31<sup>st</sup> December 2011 (the recognition of which was suspended by Resolution 565/2012/R/eel, cited above) to the achievement of the milestones established for semester one of 2013.

### Tariffs for the distribution service

With regard to the distribution service, the Authority maintained the general framework that provides for the misalignment between the single tariff paid by end users (mandatory tariff) and the tariffs collected by the distributors to cover the service costs. These latter costs are repaid on the basis of a reference tariff that is calculated using criteria that are uniform but differentiated by company, since each distributor sustains different costs for provision of the service. Then there is an equalization system that serves to rebalance each company's revenue (collected through the mandatory tariff) with the costs actually sustained (covered by the tariff of reference).

The Authority updates the level of the mandatory tariff each year according to a logic of guaranteeing the budget constraints for each contract type (residential, non-residential).

To ensure that the cost of supplying the service corresponds with the tariffs of reference, a monomial reference tariff expressed in c€/withdrawal point/year is differentiated by voltage level, except for the case of public lighting, for which the reference tariff is still expressed in c€/kWh. The reference tariff for covering commercialization costs is based on standard national costs in order to encourage the adoption of efficient solutions in the management of the related service.

In more detail, the tariff system:

- determines the recognized invested capital using a mixed method that follows a parametric approach for increases in assets prior to 2008 and based on the actual values of investments made during and after 2008;
- sets 7.6% as the remuneration rate on net capital invested (real pre-tax) for investments made up until 31<sup>st</sup> December 2011, and at 8.6% for investments made thereafter so as to compensate for the financial effects of regulatory lag in the recognition of the investments;
- for investments that entered into effect after 31<sup>st</sup> December 2011, recognizes an 8-year 1.5% increase the remuneration rate for capital investments to replace the transformers of MV/LV

substations with new low loss transformers, and a 12-year 2% increase for innovative pilot projects (smart grids, for example)<sup>57</sup>, 12-year 1.5% for renovating and upgrading medium voltage networks in historical city centres, 12-year 1.5% for upgrading the transformer capacity of primary substations in critical areas, and 12-year 2% for pilot projects for select accumulation systems;

- defines the operating costs for the distribution services for year 2012 by starting with the actual costs sustained in 2010, taking account of the partial share of the greater efficiency values achieved by the companies during the second regulatory period and passed on to the operators and greater efficiencies achieved during the third regulatory period and allocated equitably among network users and operators. The X-factor productivity recovery for the fourth regulatory period was set at 2.8%, applied in a limited manner to the reference tariff components that cover the costs of distribution facilities and infrastructures.

With Resolution 565/2012/R/eel, the Authority ordered the annual update of mandatory tariffs and reference tariffs for year 2013, providing for:

- a reduction in real terms of the portion of the tariff that remunerates operating costs, using a price cap mechanism;
- the adjustment of the remaining portion of the tariff, which covers depreciations and returns on invested capital, to account for new investments in favour of security, competition and service quality.

### Tariffs for the metering service

With Resolution ARG/elt 199/11, the Authority launched a process to rationalize the regulation of the electricity metering service by instituting the *Integrated text on electricity metering services* (TIME). This document includes a first corpus of provisions extracted from the *Integrated transport text* (TIT) and presents it as a consolidated text designed to unify and bring uniformity to all aspects of the regulations by avoiding misalignments between the different regulatory provisions currently in effect for the metering service.

In a duly gradual manner, the Authority intends to review the responsibilities related to the metering service with specific reference to the perimeter of the RTN (National Transmission Network) and to feed-in points (generation facilities) from a perspective focused on the correct partitioning of responsibility among different operators with respect to the detection and provision of the measures needed for the activities under the competence of the users of the service. A few adjustments were made to the previous regulations as early as 01<sup>st</sup> January 2012, in specific reference to:

- the determination of the cost recognized to cover operating costs for the metering service and the X-factor, bringing the time frame into alignment for the reabsorption of larger productivity recoveries than predicted for the distribution service;
- the extraction of the portion of the tariff that covers the residual value of decommissioned meters, providing a tariff component to cover the real, constant value of this cost by 2027;

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<sup>57</sup> Selected with Resolution ARG/elt 12/11 of 08<sup>th</sup> February 2011.

- the assignment to Terna of the responsibility for the detection and recording of meters at RTN interconnection points and end user withdrawal points connected directly to the RTN, in order to gather the elements needed to determine regulatory developments.

The Authority carried out<sup>58</sup> the annual updating of metering service charges for year 2013 to make them consistent with the TIT criteria. It also defined<sup>59</sup> various measures on the responsibility for the electricity generation metering service in reference to every generation facility that entered into service on or after 27<sup>th</sup> August 2012.

According to the new regulations on electricity generation (which among other things made the smart meter requirement mandatory for all electricity generation metering devices), the network operator is the party responsible for the collection, validation, registration and provision of the metering activities for new facilities that entered into service on or after 27<sup>th</sup> August 2012, including both LV facilities - even if the nominal power is greater than 20 kW (for which, in the previous regulation, the responsible subject was the producer) - and MV and HV facilities.

This regulatory decision, on the one hand, is intended to reduce the problems involving the interaction between producers and network operators that could make the smart metering and remote reading of these devices impossible<sup>60</sup>; on the other hand, it is designed to ensure greater security in determining the metering data to be used to calculate the physical consignments entitled to the incentives for electricity generation from renewable energy resources.

In continuity with this review of responsibilities and with the prospect of implementing a redefinition of metering service responsibilities for all generation facilities, a dedicated survey was prepared (for completion by 30<sup>th</sup> June 2013) in order to provide the Authority with detailed information on every metering point and production unit in reference to each and every perimeter point of the RTN (i.e., for every point where electricity flow transits happen with the RTN).

### Exclusion of overlapping transfers between businesses in the supply chain

Resolution 11/07 *“Mandatory separation of administration and accounting for businesses in the electricity and gas sectors”* was introduced into the Italian system in order to, among other things, prevent enterprises working in the electricity and gas sector from making overlapping resource transfers between multiple businesses in the supply chain. In 2012 in the electricity sector, the Authority neither initiated nor concluded any proceedings to ascertain violations of the regulations on the mandatory separation of operations and accounting.

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<sup>58</sup> Resolution 565/2012/R/eel.

<sup>59</sup> Annex A-bis to Resolution 339/2012/R/eel of 02<sup>nd</sup> August 2012.

<sup>60</sup> In other words, to meet the grid operators' need (on distribution networks, at least) to achieve a correspondence between the party responsible for the collection, validation, registration and provision of the metering for generated electricity and the party responsible for meter installation and maintenance activates for generated electricity.

### 3.1.4 International cooperation and the regulation of cross-border facilities and infrastructures

#### Access to facilities and infrastructures and congestion management

The Italian Authority collaborated with the German authority to draft the *Target Model* for the European electricity sector, and was entrusted the task of coordinating the preparation of a *roadmap* for implementing the *day-ahead market coupling* with the final goal being to achieve the *coupling* of day-ahead markets at the European level by 2014.

In pursuit of this goal, ACER's approach is first to establish this coupling in a zone populated by countries whose markets are already in an advanced state of integration, and then to extend this model to include other countries. The zone identified as the initial core is the Centre-West (CWE) Region, consisting of Belgium, France, Germany and the Netherlands, all of which have already adopted market coupling between their respective markets. There are several milestones on the road to the final goal, the first of which is to establish market coupling in the North-West Region (the countries of the CWE Region plus Great Britain and Scandinavia), a coupling which was initially expected by the end of 2012, but which was postponed to November 2013 due to various difficulties encountered during the implementation phase.

The Authority has focused the activities of the Centre-South-East Region (coordinated by the Italian Authority and composed of Italy, Austria, France, Germany, Slovenia, Greece and by Switzerland as an observer country) on the specific priority areas identified in the Target Model, which pays special attention to the coupling of the day-ahead market with neighbouring countries. This Region will be integrated by 2014, as planned on the *roadmap* prepared by the TSOs and market operators of the Region and shared with the regulators. Completion of the integration process requires the Authority and the Ministry for Economic Development to make changes to the sector rules and regulations by this time. Another important objective achieved by the Region, on the heels of the harmonization of the allocation rules with the CWE Region, is the execution of the auction/adjudication process for the explicit allocation of cross-border transport capacity. This has already been taking place on an annual, monthly and daily basis through the CASC (Capacity Allocation Service Company) since March 2011. Since June 2012, the explicit allocation of capacity through the CASC has been enriched, following the closure of the day-ahead market, with two auction/adjudication sessions on the North Italian border to allow for the participation of Italy's intra-day market.

#### Integration of the Italian and Slovenian day-ahead markets

The *market coupling* between the day-ahead market managed by the Italian Power Exchange (Gestore dei mercati energetici - GME) and the day-ahead market managed by the Slovenian Power Exchange (BSP) entered into service on 01<sup>st</sup> January 2011 for the implicit assignment of daily transit rights on the Italo-Slovenian interconnection<sup>61</sup>. There is a sharp increase in the amount of capacity assigned through explicit annual and monthly auctions/adjudications, left 'unnamed' and then resold on a daily basis through *market coupling* (implicit auctions). Consistent with the differences in prices on the Italian Exchange and the Slovenian Exchange, market coupling resulted in 96.7% of the energy flow hours being imported into Italy, with the remaining 3.3% being exported to Slovenia.

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<sup>61</sup> Via Resolutions ARG/elt 143/10 of 13<sup>th</sup> September 2010 and ARG/elt 243/10 of 16<sup>th</sup> December 2010.

The initial Italian-Slovenian agreement had a one-year term, but this was extended to 30<sup>th</sup> June 2012 while waiting for the approval of a bridge agreement to regulate the rest of year 2012.

This bridge agreement<sup>62</sup> entered into effect on 01<sup>st</sup> June 2012. The agreement introduced a new *settlement* system for the imports and exports concluded through *market coupling* that was designed to make the Italian payment schedule (fifteenth work day of the second month after the month of negotiation) more similar to Slovenia's (second work day after that of the day of negotiation), which is already in alignment with the schedules of Europe's main power exchanges.

This settlement system was founded on the following cardinal principles:

- the definition of the *shipping agent* role, as the party responsible for both the physical execution of the cross-border power exchanges that result from *market coupling* and for serving as the central national counterpart for the import/export of energy through market coupling;
- the anticipation of payment to the Slovenian shipping agent for the net imports concluded through *market coupling*, subdivided into two tranches:
- on the first work day of month M, Terna - in its capacity as Italian shipping agent - pays Eles - Electro Slovenija d.o.o., in its capacity as Slovenian shipping agent, a first tranche equal to the algebraic sum of 2/3 of the estimated value of net imports for month M and the balance of the actual value of net imports for month M-2 (i.e., the difference between the amount that Terna paid to Eles in advance and the amount actually paid by Eles in month M-2);
- on the fifteenth work day of month M, Terna pays Eles a second tranche equal to 1/3 of the estimated value of net imports for month M. By the same deadline, Eles pays Terna the interest accrued on the advance payment for the net imports for month M-1;
- the CCSE is assigned the function of ensuring that Terna has the liquidity required to make the advance payments to Eles for the net imports concluded through market coupling;
- the subdivision, among the TSOs, of the congestion revenue that results from the *market coupling* and, in specific:
  - the invoicing of congestion revenue on the fifth work day of the first month after the delivery month (M+1);
  - the payment of congestion revenue on the fifteenth work day of the first month after the delivery month (M+1).

The Italian-Slovenian agreement was renewed for 2013 and provides for a radical revision of the settlement system in order to bring the Italian and Slovenian payment schedules into alignment, to an extent limited to the regulation of imports and exports concluded through *market coupling*<sup>63</sup>. The main innovative elements of the 2012 bridge agreement may be summarized as follows:

- the redefinition of the *shipping agent* role as the party responsible for the physical execution of the cross-border programs for energy exchange via *market coupling*, and the introduction of the *central counter party* role as the party responsible for serving as the central national counterpart for energy imports/exports through *market coupling*;

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<sup>62</sup> Adopted with Resolution 217/2012/R/eel of 24<sup>th</sup> May 2012.

<sup>63</sup> Resolution 560/2012/R/eel of 20<sup>th</sup> December 2012.

- the assignment of the *shipping agent* role to the TSOs and the *central counter party* role to GME for Italy and Eles for Slovenia, respectively;
- the invoicing and payment between the *central counter parties* for the energy imports/exports resulting from *market coupling*, and in specific:
  - the invoicing of imports/exports on the *trading date* (or the next work day, on weekends);
  - the payment of imports/exports on the second work day after the invoicing date;
- the GME's assignment of the CCSE to be manage the payments pertaining to *market coupling*, i.e., the party designated to make payment, on behalf of the GME, for the energy imports and congestion revenue resulting from *market coupling*, as well as to accept payment for the energy exports resulting from market coupling (the CCSE, therefore, is the party that ensures the liquidity needed to make the advance payments to Eles in order to bring the Italian and Slovenian payment schedules into alignment);
- the apportionment of the congestion revenue resulting from market coupling among the TSOs, and specifically:
  - the invoicing of congestion revenue on the fifth work day of the first month after the month of delivery (M+1);
  - the payment of congestion revenue on the ninth work day of the first month after the month of delivery (M+1).

The initiation of market coupling has had an increasingly positive impact on the economic efficiency of the cross-border capacity allocation. First and foremost, on the Italian-Slovenian border it created commercial flows of energy that are coherent with the price differences between the respective power exchanges. This is also a result of the exponential growth in the average share of unused capacity, which was originally assigned through explicit annual and monthly auctions/adjudication but was then resold through market coupling on a daily basis (according to the Use-It or Sell-It - UIOSI principle): 20% in 2011, 95% in 2012 and 100% in the first quarter of 2013. This means that all capacity allocation on the Italian-Slovenian border is currently taking place through market coupling. The average capacity allocated on a daily basis has kept pace with this development: 126 MW in 2011, 404 MW in 2012 and 530 MW in the first quarter of 2013. Lastly, non-negligible numbers of price convergence hours, equal to 20% of the hours of the year, were also registered in both 2011 and 2012.

### Investments in new network facilities and infrastructures and coherence with Community development plans

Pursuant to art. 36 of Legislative Decree no. 93/11, which incorporates Directive 2009/72/EC into the national system, the transmission system operator must prepare a ten-year RTN development plan by 31<sup>st</sup> January of each year; the Authority must hold a public consultation on this Plan, publicize the results and communicate the findings to the Ministry for Economic Development.

With Resolution 102/2012/R/eel<sup>64</sup>, the Authority adopted specific provisions on the public consultation procedures for the draft of the ten-year RTN development plan, pursuant to art. 36,

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<sup>64</sup> Resolution of 22<sup>nd</sup> March 2012.



paragraph 13 of Legislative Decree no. 93/11; this considers the fact that the issues subject to consultation are both highly complex and of strategic relevance for purposes of developing the electric system.

In May 2012, the Authority posted a draft of the ten-year plan for year 2012 on its website. In the consultation phase, the Authority organized two public sessions for Terna to present the draft and including the participation of the different stakeholders representing the electric system (operators and consumers and their associations). All interested parties were also given the opportunity to submit any specific questions on the document, questions to which Terna would prepare replies to be posted on the websites of both Terna and the Authority. The assessment process for the draft ten-year plan is still under way.

### International coordination with other regulatory authorities and ACER

In 2012, coordination at the European level once again found the Authority engaged on three different fronts: ACER, CEER and the regional initiatives. The main goal of these efforts was to promote an integrated European energy market that was competitive and efficient, so as to ensure proper implementation of the “Third energy package.”

As for the electricity sector, over the past year the Authority has been closely involved in the analysis of European Network Codes being conducted by the ACER working groups on this issue in regard to the following action areas: capacity allocation and congestion management (CACM), network connections, and safe management of electrical systems.

The Authority also assumed a *leadership* role, together with ACER and the French regulatory authority, in the publication of *Guidelines* on the integration of the balancing markets. These *guidelines* define the methods by which the rules of the market can be fashioned into a common foundation for the resources used to balance the electricity network at the European level, so as to guarantee the physical equilibrium of energy supply and demand and, as a result, safe and secure network management. Lastly, the efforts by the Authority in regard to the Infrastructure Package should be noted. The Authority, together with the other European regulators, made a significant contribution to the preparation of the regional lists of infrastructure projects that are in the Community interest, and on the basis of which the European Commission will adopt the first list of PICs by 31<sup>st</sup> July 2013.

In 2012, the Italian Authority collaborated with other European regulators within the CEER in order to deepen our understanding of the current and future needs of consumers. This activity took the form of a stable, ongoing dialogue with national and European consumer groups and political decision-makers. It resulted in the organization of an interactive conference, in cooperation with the European Commission, that was held last 21<sup>st</sup> June 2012, with the involvement of consumers and representatives of businesses and institutions. Over the past year, the Italian Authority has also contributed to consolidating the CEER’s international standing. In February 2013, the Italian Authority was newly elected as Vice President of the CEER, as further confirmation of the depth of its commitment to achieving the goals of this association.

On the issue of regional electricity initiatives, the Italian Authority’s engagement with the coupling of day-ahead markets at the European level, as well as its activities in the Centre-South-East Region in specific, has already been illustrated (see above). Step in step with regional cooperation, the Italian Authority also collaborates with European Authority counterparts in bilateral settings to

facilitate the informational exchanges on issues of common interest and to create a harmonized regulatory framework with the capacity to facilitate investing.

### Collaboration with Third countries of the European Union

Most of the Authority's collaboration with Third countries of the European Union takes place between European and non-European regulators of the Balkan and Mediterranean areas, through dedicated cooperative institutions and structures to which the Authority itself has contributed actively since their establishment.

In 2012, the Authority once again contributed to the implementation of the Treaty establishing the Energy Community of South-East Europe (EnCT) in the form of the direct and ongoing participation of Authority representatives in the meetings of the *European Community Regulatory Board* (ECRB) and its working groups, and in forums on electricity (Greece) and on gas (Slovenia), whose scope is to share decisions made at the institutional level with *stakeholders* in the sector. In the electricity sector, the Electricity Working Group, which presided over by the Serbian regulator in collaboration with the association of European TSOs in the ENTSO-E sector, is implementing the regional action plan activities for opening the wholesale markets in the Region, as was already approved in 2011.

In Montenegro on 13<sup>th</sup> June 2012, the corporate by-laws for creating (by 2013) the SEE CAO were signed by ten transmission operators in the presence of Montenegro's Ministry for the Economy and representatives of the European Commission and the Region's Regulatory Authorities, including the Italian Authority. The expected benefits include the capacity of the SEE CAO to heighten the level of harmonization between the different markets in the Region, to simplify the management by market participants and to improve the transparency of prices.

Over the past year, the Authority has upheld its international commitment to the Mediterranean basin through MEDREG, which the Authority founded and promotes. During the most recent General Assembly, the Italian Authority (which hosts MEDREG's permanent Secretariat of at its headquarters in Milan) was appointed as the standing technical Vice presidency of the Association. The Authority, which successfully coordinated the first service contract signed by MEDREG and the European Commission on 20<sup>th</sup> December 2007, is currently supporting the Secretariat's handling of the second contract, which terminates at the end of 2013. A new financing contract is under negotiation for the 2013-2016 period (about 3 million euros). The main activities during the year concerned institutional aspects, electricity, natural gas, renewable energy resources and consumer protection.

The Authority promotes the dissemination of national and European regulatory cultures bilaterally through meetings, cooperation agreements and collaborative meetings with the national regulators, governments and businesses of European and non-European countries with an interest in learning about the Italian model of energy regulation. During the past year, the main contacts of the Italian Authority were with Albania, Egypt, Serbia, Turkey, Ukraine, Uruguay and Vietnam.

#### 3.1.5 Conformity with Community laws and regulations

Over the past year, neither the Agency nor the Commission made any legally binding decisions that the Authority was required to implement pursuant to article 37.1.d) of Directive 72/2009/EC.

### Regulator competences and powers pursuant to Legislative Decree no. 93/11

Directives 72/2011/EC and 73/2011/EC of 2011 attribute considerable prerogatives and powers to the energy regulators, as already provided in Authority's organic statute no. 481/95 and partially integrated by Legislative Decree no. 93/11. The main points are presented in table 3.3.

**Table 3.3 Regulator prerogatives and powers assigned by the Third energy package**

ARTICLE directives	CONTENT	COMMENT
Art. 37(12) Art. 41(12)	Any party who suffers an adverse effect and who has the right to appeal a decision concerning the methods adopted pursuant to the present article, or when the regulatory Authority must proceed with consultations regarding the proposed tariffs or methods, may file a complaint asking for the decision to be reviewed within two months, or within a shorter time when so provided by the Member States, of the publication of the decision itself or of the proposed decision. The complaints do not have a suspensory effect.	Art. 44 of Legislative Decree no. 93/11 incorporates the Community provisions on complaints. The model drafted by the Italian legislature provides for two different management procedures.  Paragraphs 1 through 3, which delineate one of the two procedures, attribute the Authority with decision-making functions in regard to complaints presented against the operators of transmission, transport or storage systems or LNG or distribution systems. Paragraph 4 presents the second model by which the Authority can draw on the Single Buyer to manage complaints against the sellers and distributors of electricity and gas.
Art. 37(1)(b) Art. 41(1)(b)	The regulatory Authority has the following duties: b) to guarantee that the operators of the transmission and distribution systems and, if necessary, the proprietors of the systems, as well as any kind of electric company, are in compliance with their obligations pursuant to the present directive and any other provisions found in the pertinent Community legislation, including in regard to cross-border issues.	Art. 43, paragraph 2, lett. c), of Legislative Decree no. 93/11.  Word for word, the law provides that: <i>"2. The Regulatory Authority for Electricity and Gas guarantees: c) fulfillment by the operators of transmission and distribution systems and, if necessary, by the proprietors of the systems, as well as any type of electricity or natural gas company, of the obligations deriving from Directives 2009/72/EC and 2009/73/EC, regulations 713/2009/EC, 714/2009/EC and 715/2009/EC, as well as the other provisions of Community law, including those on cross-border issues."</i>
Art. 37(1)(d) Art. 41(1)(d)	The regulatory Authority has the following duties: d) to observe and enforce the pertinent, legally-binding decisions of the Agency and the Commission.	Paragraphs 4 and 5 of art. 46. The text of the Legislative Decree that incorporates this provision, however, makes reference to the Authority's "cooperation" with ACER and the Commission but does not speak of enforcing the legally-binding decisions of ACER and the European Commission.  Note also how paragraph 2 of art. 45 provides that <i>"The Regulatory Authority for Electricity and Gas also imposes pecuniary administrative sanctions in cases of failure to comply with the legally-binding decisions of ACER or of the Authority itself."</i>

ARTICLE directives	CONTENT	COMMENT
Art. 37(1)(q) Art. 41(1)(r)	The regulatory Authority has the following duties: q) and r) to oversee the application of the laws regulating the functions and responsibilities of the transmission system operators, distribution system operators, suppliers, customers and other market participants pursuant to regulation (EC) 714/2009.	The text of Art. 43, paragraph 3, lett. b) of Legislative Decree no. 93/11 provides that: <i>“3. The Regulatory Authority for Electricity and Gas oversees: b) the application of the laws regulating the functions and responsibilities of transmission system operators, transport system operators, distribution system operators, suppliers, customers and other market participants pursuant to regulation (EC) 714/2009 and regulation (EC) 715/2009.”</i>
Art. 37(4)(b) Art. 41(4)(b)	The regulatory Authority should be granted the power to carry out investigations into the operation of electricity markets and to adopt and impose the appropriate, necessary and proportional measures for promoting effective competition and guaranteeing good functionality of the market. Where appropriate, the regulatory Authority is also authorized to cooperate with the national Authority for protecting competition, the regulatory Authorities for the financial markets or the Commission while carrying out an investigation concerning the laws on competition.	The regulations introduced by Legislative Decree no. 93/11 are, in general terms, in conformity. The first period is implemented in art. 43, c. 5. Regarding the provision on cooperative relations with national Authorities for protecting competition, it should be noted that art. 46, paragraphs 1 and 2 provide for collaboration between the Authority and the Autorità garante della concorrenza e del mercato in order to ensure the effective regulation of markets and competition in the energy sector.
Art. 35(5)(a) Art. 39(5)(a)	In order to safeguard the independence of the regulatory Authority, Member States take specific measures to ensure that: a) the regulatory Authority can make autonomous decisions in full independence from any political body and enjoys separate annual capital allocation, autonomy to implement the assigned budget and the human and capital resources appropriate for the performance of its activities.	Law no. 481/95 already provides for the independence and autonomy of the Authority. In regard to Legislative Decree no. 93/11, arts. 43 through 46 are dedicated to the Authority and regulate its goals, functions and powers.
Art. 37(4)(c) Art. 41(4)(c)	The regulatory Authority should be granted at least the following powers: c) the power to require all electric companies to furnish all of the information of pertinence for fulfilling its duties, including the reasons for any refusals to consent to third party access and all information on the measures needed to strengthen the network.	It should be pointed out that Law no. 481/95 provides, in art. 2, paragraph 20, lett. a), for the general power to request information and documents on the activities of operator subjects. Art. 5 of Legislative Decree no. 93/11 regulates the obligation of gas and electricity suppliers to make the records on the transactions involved in their supply contracts available to the Authority, to the Ministry for Economic Development and to the Autorità garante della concorrenza e del mercato.

ARTICLE directives	CONTENT	COMMENT
Art 37.(4)(d) Art. 41(4)(d) Art. 41(5)(a)	The regulatory Authority should be granted at least the following powers: d) to impose effective, proportionate and dissuasive sanctions on any electric companies who fail to comply with the obligations imposed on them by the present directive or the pertinent legally-binding decisions of the Agency or of the regulatory Authority itself; or to propose a competent jurisdiction for the imposition of such sanctions. This includes the power to impose or recommend the imposition of sanctions on a transmission system operator in an amount equal to as much as 10% of the transmission system operator's annual revenue, or on a vertically-integrated undertaking for up to 10% of the vertically-integrated undertaking's annual revenue, depending on the case, for non-compliance with their respective obligations as derived from the present directive.	Art. 45 of Legislative Decree no. 93/11 regulates the Authority's sanctioning powers notwithstanding those already attributed to it by Law no. 481/95. In reality, the provisions referred to in art. 45 of Legislative Decree no. 93/11 might not be in full conformity with the directives. There appears to be a partial incongruity, as noted by the Authority during the approval process for Legislative Decree no. 93/11 itself. Art. 45, in fact, identifies the same upper and lower sanction limits as provided in Law no. 481/95, but it also provides for an additional 10% "ceiling" on the annual revenue of vertically-integrated undertakings in the exercise of the activities pertaining to a violation that took place in the financial year prior to the year in which the sanction proceedings were initiated.
Art. 37(5)(c) Art. 41(5)(a)	In addition to the duties and competences granted by paragraphs 1 and 4 of the present article, the regulatory Authority shall be attributed at least the following duties and competences when a transmission system operator be designated based on Chapter V: c) to act as the Authority to resolve any disputes that arise between a vertically-integrated undertaking and a transmission system operator subsequent to any complaints filed pursuant to paragraph 11.	Paragraph 1 of Art. 44 establishes that the Authority shall rule on any complaints lodged against the operators of transmission, transport or storage systems or LNG or distribution systems with concern to the obligations imposed by implementation of the directives on internal energy markets.
Art. 37(4)(e) Art. 41(4)(e)	Members take measures to ensure that the regulatory Authorities are empowered with adequate inquisitorial rights and the pertinent investigative powers to resolve the disputes referred to in paragraphs 11 and 12.	Art. 2, paragraph 12, lett. m) of Law no. 481/95 is partially implemented, providing the Authority with the power to assess the complaints filed by users and consumers.

In addition, paragraph 3 of art. 37 of Legislative Decree 93/11, which incorporates the Third package, provides for the Ministry for Economic Development to determine the methods and conditions for electricity imports/exports via the national transport network, leaving the Authority with the residual function of adopting the provisions needed to implement the Ministerial provisions, while the electricity directive (art. 37(6)) attributes the Authority with the duty of establishing and approving the methods to be used to calculate or establish the access conditions for cross-border infrastructures, including the procedures for capacity assignment and congestion management. On 08<sup>th</sup> November 2012, in report 461/2012/l/com to the Government and Parliament, the Authority recommended a revision of article 37, paragraph 3, cited above, to the Government and Parliament, so that these competences would be entrusted to the Authority as provided by Community law.

## 3.2 Promotion of competition

### 3.2.1 Wholesale markets

The still provisional figures from the national network operator show that the demand for electricity contracted by 2.8% in 2012, following the slight increase in consumption that was recorded in 2011. The negative change held consumption at 305 TWh for 2012. Electricity consumption, however, is still far below (-4.4%) the values for the pre-crisis period. Table 3.4 presents electricity production and consumption for years 2011 and 2012. In 2012, net national production covered more than 87.5% of the demand, which is consistent with the previous period, with net imports (43 TWh) contributing to covering the remaining share of demand. Exports represent the only item exhibiting a countertrend with its 27.6% increase. An analysis of investments, alternatively, reveals sharp contractions in the industrial sector (-6%), followed by agriculture (-1.8%) and services (-0.7%). Residential, on the other hand, presents a mild 0.4% increase.

Peak power demand touched its maximum level during the month of July, when it reached 54.1 GW.

**Table 3.4 Aggregate balance of electricity in Italy in 2012**

GWh

	2011	2012 <sup>(A)</sup>	% CHANGE
Gross production	302,570	295,630	-2.4%
Auxiliary services	11,124	10,562	-5.1%
<b>Net production</b>	<b>291,446</b>	<b>284,798</b>	<b>-2.3%</b>
Received from foreign suppliers	45,520	45,369	-4.5%
Sold to foreign customers	1,787	2,281	27.6%
Designated for pumping	2,539	2,627	3.5%
<b>Available for consumption</b>	<b>334,640</b>	<b>325,259</b>	<b>-2.8%</b>
Leakage	20,848	20,259	-2.8%
<b>Consumption at a net of leakage</b>	<b>313,792</b>	<b>305,000</b>	<b>-2.8%</b>

(B) Provisional data.

Source: AEEG elaborations on Terna data.

Total net national production in 2012 was 285 TWh, which is down by 2.3% compared to 2011. Thermoelectric production covered about 67.8% of net national production, with renewable energy resources covering the remaining 32.2%. A disaggregation of the data by source reveals a decrease of 7.3% in thermoelectric production between 2012 and 2011. The decrease in thermoelectric production resulted from a sharp decrease in the production of electricity from natural gas (-11%), which in 2012 represents 65% of net thermoelectric production (67.5% in 2011), plus a reduction of about 22% for the last item, "Others", which includes miscellaneous solid fuels, gas derivatives and other gaseous fuels. These decreases outweighed the increase in production by coal (+10%) and petroleum products (+5.6%), which have a lesser impact on thermoelectric production (23% and 4.2%, respectively).

Electricity production from renewable energy sources, alternatively, registered an increase of about 10%. This result includes the contributions of an increase in wind-power generation (+34.2%), photovoltaics (+72%) and biomass and waste (+15.5%). There was a decrease, on the

other hand, in hydroelectric (-8.2%) and geothermal (-1.5%) production. The strong annual increases in wind-power and photovoltaics found these two sources assuring 14% and 20% (respectively) of total national production by renewable energy sources. Taken together, these two sources account for over 11% of net national production.

The balance of trade for 2012, according to Terna's provisional figures for the financial year, amounted to 43,088 GWh, with net imports down by 5.8% relative to the previous year. The balance represents the difference between imports, which were equal to 45,369 GWh (-4.5% under 2011) and exports, which amounted to 2,281 GWh (+27.6% over 2011). In 2012, therefore, the items in the net balance experienced an inversion of trends, since imports had registered a positive change of 3% in 2011 while exports showed a 6% contraction. In 2012, the foreign trade balance covered 13.2% of domestic demand. The downturn in imports in 2012 is linked to a substantial contraction in energy from France (-1,767 GWh), Slovenia (-935 GWh) and Switzerland (+329 GWh) that is only partially counterbalanced by an increase in imports from Greece (+813 GWh). As for exports, the increase is attributable to the positive contribution by all countries; the solid 195 GWh increase towards Switzerland is particularly noteworthy.

In terms of the net amount of electricity generated, the market share of the Enel group continues the downward trend being witnessed in recent years, sliding from 26% in 2011 to 25% in 2012 (and 27.5% in 2010). Eni remains in second place with a 9.5% that remains essentially unchanged. They are followed by Edison (7.2%), Eon (4.3%) and Edipower (3.8%), who registered the most evident reductions in market shares by about one percentage point each. The greatest beneficiaries of the larger market spaces that were freed up from the main producers are represented by small-sized operators, whose presence rose from 26.5% in 2011 to 30.2% in 2012. The corporate groups that increased in their respective market shares include GdF Suez, whose share was up for the second consecutive year, from 0.3% in 2010 to 3.1% in 2011 and 3.6% in 2012, moving ahead of A2A (3.1%) and Tirreno Power (3%). In 2011, the dissolution of the joint venture between Acea and the GDF Suez Energia Italia led to the sale of the AceaElectrabel and Tirreno power (the latter at 50%) production sites, which joined the GDF Suez power plant group.

The Herfindahal-Hirschman (HHI) index has fallen steadily for gross generation and is equal to 884 for 2012, as compared to 953 for 2011 and 1,097 for 2010.

The maximum net generation capacity installed was 124.2 GW as of 31<sup>st</sup> December 2012, while the net capacity available (at least 50% of the time) was 103 GW (Table 3.5).

With respect to net capacity installed, there are three operators with market shares greater than 5%: Enel (31.1%), Edipower (6.5%) and Edison (5.5%). The percentage of capacity held by the top three operators is 43%, down by nearly 3 percentage points compared to 2011. The HHI index for net capacity installed reveals a decrease in market concentration as compared to 2011. The value for 2011 is 1,121, in fact, and was 1,243 the year before that.

With regard to net capacity available (at least 50% of the time), there are five operators with market shares greater than 5%: Enel (35.2%), Edipower (7%), Edison (6.6%), Eni (5.4%) and E.On (5%). Based on these figures, the percentage of capacity held by the top three operators was 48.7%. For 2012, the HHI index for net capacity available is 1,437, which is down from 2011 (1,673).

**Table 3.5 Development of the wholesale market**

	REQUEST <sup>(A)</sup> (TWh)	PEAK DEMAND (GW)	NET CAPACITY INSTALLED (GW)	NO. COMPANIES WITH > 5% OF NET GENERATION	% SHARE OF 3 LARGEST COMPANIES IN NET GENERATION
2001	304.8	52.0	76.2	4	70.7
2002	310.7	52.6	76.6	3	66.7
2003	320.7	53.4	78.2	4	65.9
2004	325.4	53.6	81.5	5	64.4
2005	330.4	55.0	85.5	5	59.4
2006	337.5	55.6	89.8	5	57.1
2007	339.9	56.8	93.6	5	54.7
2008	339.5	55.3	98.6	5	52.0
2009	320.3	51.9	101.4	5	50.6
2010	326.2	56.4	106.9	5	48.2
2011	332.3	56.5	118.4	4	44.0
2012	325.3	54.1	124.2	3	41.2

(A) As a net of energy designated for pumping and a gross of network leakage.

Source: AEEG elaborations on Terna and producer data.

### The structure of the electricity market

The Gestore dei mercati energetici (GME - Energy Markets Operators) manages the energy markets, which are subdivided into the Spot Market for energy (MPE), which is in turn subdivided into the Day-Ahead Market (MGP), the Intra-day market (MI) and the Ancillary Services Market (MSD), and the Forward market for Electricity (MTE) with mandatory physical delivery of energy. The GME also manages the platform for the physical delivery of financial contracts concluded on the IDEX, which is the segment of Italian Exchange's derivatives market for trading in energy *futures* contracts.

The MGP is for the trading of energy through buy and sell bids and offers, and takes place in a single session through an implicit auction for the following day; offers can be made starting nine days before the delivery date. The MI is held after the MGP closes and before the MSD opens, and allows for operators to update their bids and offers as well as their commercial positions in relation to trading on the MGP. The MI was established by Law no. 2 of 28<sup>th</sup> January 2009, and was launched in November 2009 to replace the Adjustment Market (MA). Starting in January 2011, this market was divided into four sessions (MI1, MI2, MI3, MI4) with different closing hours and in succession - it is an auction market but the offers are valued at the zonal price.

The point of the MSD is for Terna to supply the resources needed to manage and control the system, to resolve intra-zonal congestion, create energy reserves and real-time balancing; in contrast to the other markets, in this case Terna acts as the central counter party. The MSD is subdivided into a programming phase (MSD ex ante) and the Balancing Market (MB). The MSD ex ante and the MB are held in multiple sessions in accordance with the dispatching regulations. The MSD ex ante is subdivided into three programming subphases (MSD1, MSD2, MSD3), while the MB is organized into five sessions during which Terna chooses offers based on groupings of hours for



the same day as the related session and does not involve the presentation of new bids, but merely the possibility for Terna to accept the bids already presented in the MSD ex ante. Accepted bids are valued at the bidding price (pay-as-bid).

The MTE is a session for trading in futures contracts with mandatory energy delivery and withdrawal. The trades are ongoing and involve two types of contracts - *baseload* and *peakload*, which can be traded in monthly (three products), quarterly (four products) and annual (one product) delivery periods.

In November 2008, the Italian Exchange launched the Italian market for electricity derivatives (IDEX), which is dedicated to the trading of derivative financial instruments underpinned by the average purchase price (National Single Price - PUN). In implementation of the 29<sup>th</sup> April 2009 decree by the Ministry for Economic Development, the GME stipulated a cooperative agreement with the Italian Exchange to enable operators participating in both markets to regulate, through physical delivery, the financial contracts concluded on the IDEX.

Operators have been allowed to buy and sell energy not only through the GME's organized market, but also through the stipulation of sales contracts concluded outside of the bidding system. In May 2007, the Piattaforma conti energia (PCE - Energy Accounts Platform) entered into effect as an added element of systemic flexibility. The platform registers the amounts involved in futures contracts and the amounts contracted on the CDE platform (Consegna Derivati Energia, see below). In terms of the degree of participation in the market, 2012 witnessed a rise in the number of operators registered in the GME's electricity markets in comparison to the previous year. More specifically, the number of parties on the IPEX rose from 192 in 2011 to 200 in 2012. The increase was experienced in both the spot markets, with 149 (+12 relative to 2011) on the MGP and 114 (+23 relative to 2011) on the MI, and the forward market (MTE), with 25 operators (+5 relative to 2011). Participation in the registration platform for bilateral contracts (PCE) was also up from 208 in 2011 to 259 in 2012.

### Trading on the Exchange and bilateral trading

In 2012, there was a 4.1% reduction in total volumes relative to the previous year, down to a level of 298.7 TWh. This resulted from a reduction in trading on the exchange, from 180.4 TWh in 2011 to 178.7 TWh in 2012, and a reduction in bilateral trading, which for their part fell from 131.1 TWh in 2011 to 120 TWh in 2012.

National demand fell by 4%, mostly due to a strong contraction in the volumes purchased in the Center North zone (-7%), followed by Sardinia (-6%), with the latter reversing the previous year's trend, which involved a quite significant increase (+14.3%). The only macro-zone with a plus sign this year was Sicily (+1.6%). Despite the sharper decline in the Italian System compared to the previous year (-2.2% in 2011), trading on the Exchange registered a decline of less than 1%. Conversely, the liquidity of the market was 59.8%, nearly two percentage points higher than in 2011. In contrast to the previous year, the largest contribution to the fall in demand can be attributed to the contraction in Single Buyer purchases, which show a -17.4% change and a request of 39.6 TWh. The demand by operators other than the Single Buyer shows a 2% decrease, which is still less in absolute terms than in 2011 (-17.9%).

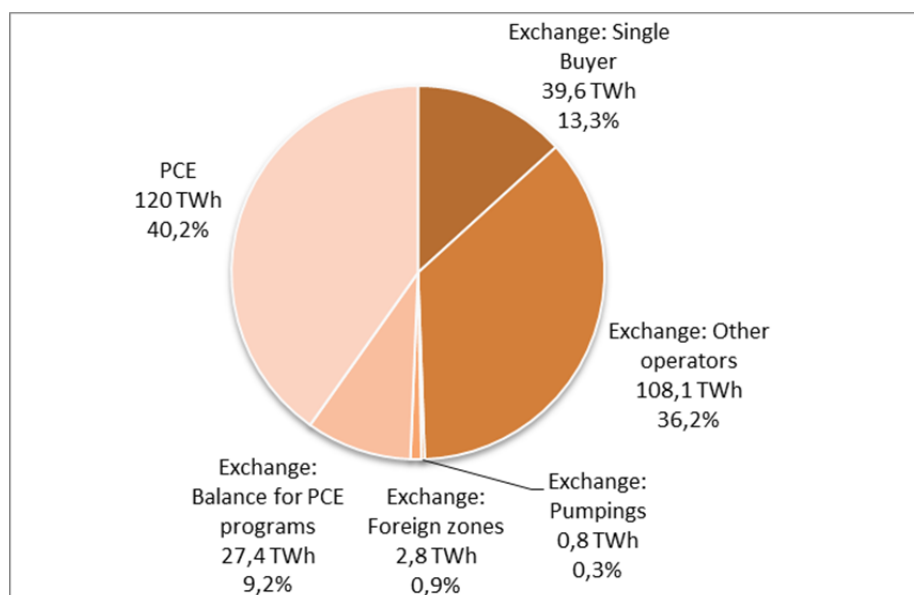
**Table 3.6 Electricity market**

TWh

YEAR	TRADING ON THE MGP		
	Total	on the Exchange	bilateral
2002	-	-	-
2003	-	-	-
2004	231.6	67.3	164.3
2005	323.2	203.0	120.2
2006	329.8	196.5	133.3
2007	330.0	221.3	108.7
2008	337.0	232.6	104.3
2009	313.4	213.0	100.4
2010	318.6	199.5	119.1
2011	311.5	180.4	131.1
2012	298.7	178.7	120.0

Source: AEEG elaborations on GME data.

The demand underlying the bilateral contracts registered an 8.5% contraction. These results felt the 3.5% contraction in national operators, who represent over 90% on the bilateral trading platform, and this value is also a countertrend in relation to the previous year, when there was a 28.4% increase in purchases by national operators other than the Single Buyer.

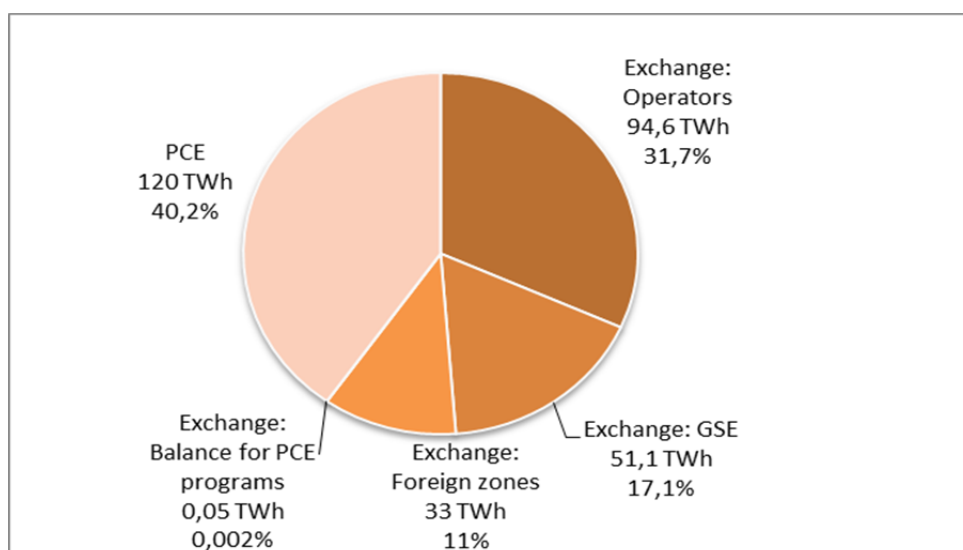
**Figure 3.1 Percentage breakdown of the demand for electricity in 2012**

Source: AEEG elaborations on GME data.

The volumes offered on the Exchange exhibited an overall decline of just under 1%. This result was shaped by a 30% increase in GSE offers, a 12.9% reduction in the proposals by national operators (also down in 2011, at -10.3%) and a 2.9% increase from foreign areas. There was an overall contraction of 8.7% and a volume of 178.7 TWh on the Electricity Account Platform (Piattaforma Conti Energia a Termine or PCE). This result is due to the combination of a sharp decrease, relative

to 2011, in offers from foreign areas (-25.1%) and a 6.4% reduction from national operators, for 106.5 TWh.

**Figure 3.2 Percentage breakdown of the supply of electricity in 2012**



Source: AEEG elaborations on GME data.

**Table 3.7 Bilateral contracts on the MGP**

TWh

CONTRACTS	2011	2012
Bilateral contracts	131.1	120.0
National	148.8	146.9
<i>Single Buyer share</i>	36.8	38.8
<i>Other operators share</i>	112.0	108.1
Foreign	0.4	0.5
PCE programs balance <sup>(A)</sup>	-18.1	-27.4

(A) In each of the relevant periods, this is the difference between the sum of the input schedules and the sum of the withdrawal schedules from the Energy Accounts Platform and registered on MGP. The balance of the PCE schedules is also equal to the algebraic sum of the physical balances of the energy accounts (input and withdrawal).

Source: AEEG elaborations on GME data.

### Concentration operations in the electricity sector in 2012

In 2012, the corporate restructuring of Edison Spa was brought to completion. On 24<sup>th</sup> May 2012, more specifically, the shareholders of A2A, Delmi and Électricité de France Sa (EDF) completed a corporate restructuring that involved, among other things, EDF's purchase of exclusive control of

Edison and the simultaneous sale of 70% of Edipower (50% held by Edison, 20% by Alpiq) to the Italian partners united under Delmi<sup>65</sup>.

Other significant corporate transactions in the electricity sector include:

- the complete exit of Enel from Terna's share capital with the sale of the last 5.1%.
- the Hera Group, through Hera Energia Rinnovabili S.p.A., (Hera ER) bought another company in the solar energy production field: Ctg Ra di Faenza (Ravenna), sold by Colexon Italia Srl.
- JV M&A Rinnovabili, between Alpiq and Moncada, buys four biomass facilities from Alpiq, for a total of 50 MW. Moncada bolsters its presence in bioenergy, climbing to 94 MW installed (35% of total capacity)
- Alpiq buys 100% of two wind-power farms in Sicily for a total of 124 MW (84 MW at Lercara Friddi and 40 MW at Cattolica Eraclea) from JV M&A Rinnovabili as a compensatory measure for four biomass plants for a total of 50 MW. At the conclusion of the conferments, Alpiq reduces its own share in M&A Rinnovabili from 30% to 22%. In this way the Swiss increase the capacity installed at Fer in Italy by over 60%, to more than 200 MW, also providing for three mini hydroelectric stations in Piedmont and another wind-power plant in Ramacca (Catania).
- at the end of July 2012, the merger of Amia (which was held by the Municipality of Verona) into Agsm Verona was finalized.
- Heat & Power Srl bought Generale Energia SpA (Genergia), a company operating in generation, from Tesa SpA.
- Solar21 Renewable Energy Ireland Ltd, an investment fund specializing in the renewable energy resources sector, bought 6 PV plants in South Italy from AEG Power Solutions.
- on 23<sup>rd</sup> November 2012, Alpiq Italia sold Energit to Onda Energia. The Alpiq Group left the retail market in Italy. Onda energia is a Sicilian operator working in the sales and trading of energy and specializing in the retail and residential market. Energit specializes in the sale of electricity to small- and medium-sized enterprises, VAT codes and private uses. Since March 2012 it has also been working in natural gas sales to families, professionals and businesses.

Enel leaves the joint venture signed with Edf for the construction of five nuclear power plants in France, of which only the one in Flamanville, Normandy, is under construction.

### 3.2.1.1 Price monitoring on the wholesale market

#### The day-ahead market

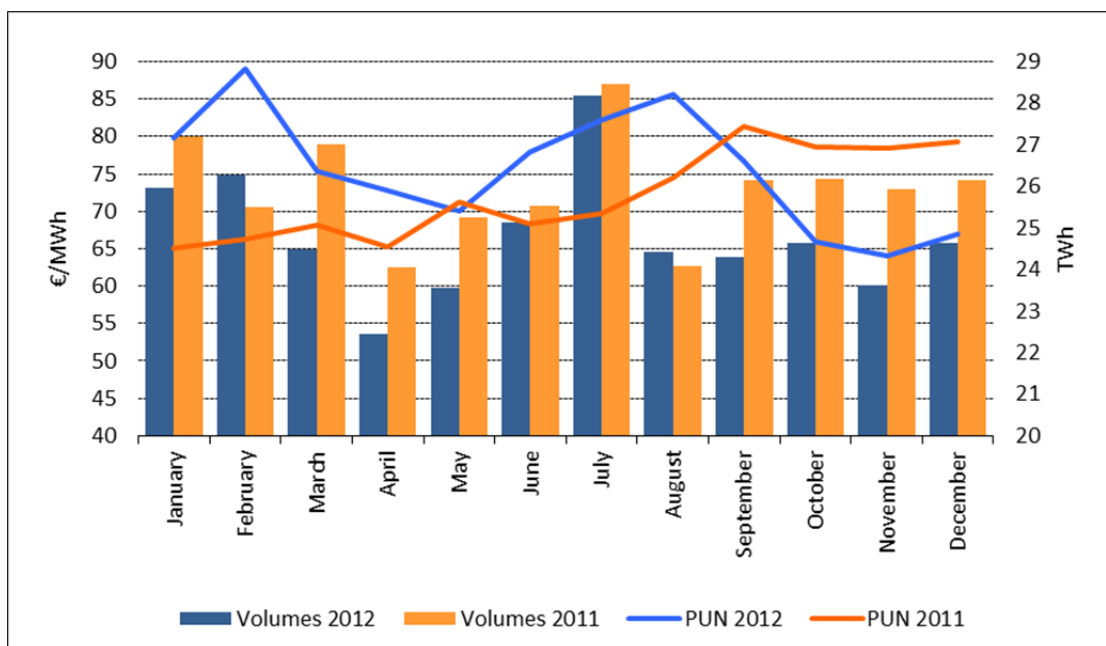
The Italian Power Exchange registered 75.53 €/MWh as the average energy purchase price in 2012, up by 4.6% compared to 2011. Differently than the previous year, the increase was particularly accentuated during peak hours, for which the average price rose by more than 3.6 €/MWh. The highest average monthly price was registered 89.04 €/MWh in the month of February, while the monthly peak in demand was confirmed at 28.2 TWh during the month of July.

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<sup>65</sup> Delmi is a private investment vehicle made up of A2A, Iren, Dolomiti Energia, Società Elettrica Altoatesina and a few banks.

**Figure 3.3 Variations in the Single national price (PUN) in 2012**

€/MWh; TWh



Source: AEEG elaborations on GME data.

A calculation of the HHI index in relation to energy sales reveals a high level of diversification in concentration levels at the zonal level. The North macro-zone was the most competitive (average HHI of 1,232), while the other zones show high concentrations levels that were above 3,000, on average, with the highest value being registered in Sardinia, with an average HHI of 3,672.

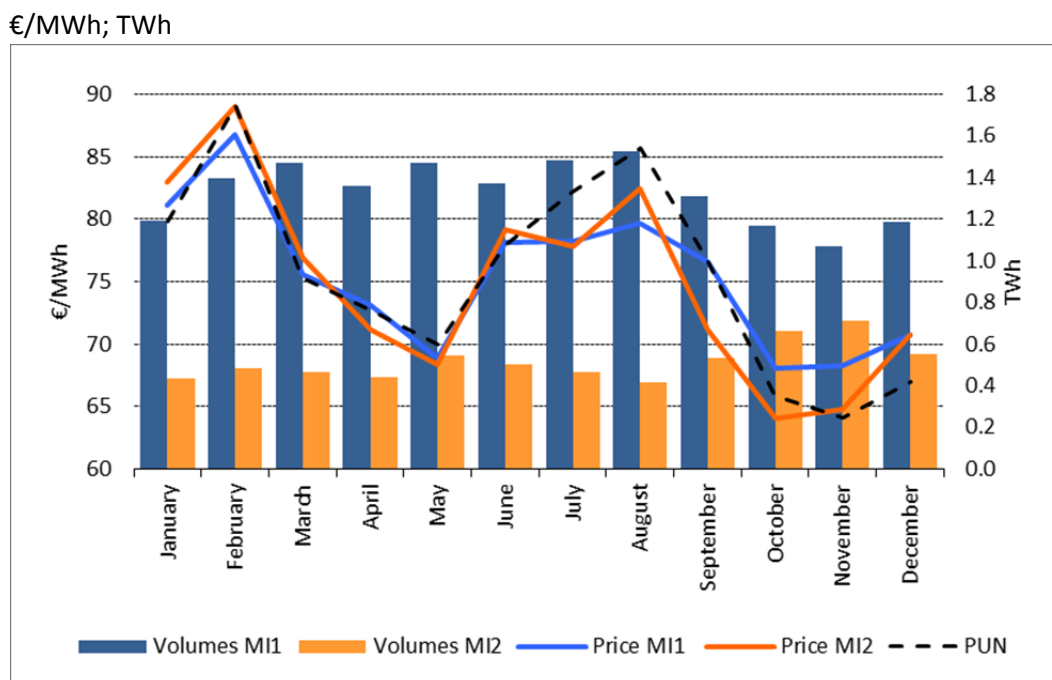
The marginal operator index (IOM), calculated in reference to volumes, for the Italian System shows an increase of two percentage points in comparison to 2011. In specific, the percentage of total volume traded with the first operator setting the price was higher than 25% in 2012, as compared to approximately 23% in 2011. At the zonal level, there was noteworthy improvement for Sardinia in the face of IOM spikes in excess of 60%; in 2012, the average percentage for this same region was about 26%. Sicily is still facing critical problems, on the other hand, with an IOM of over 81% and a peak of over 87%.

### Intra-day market

During 2012, 16 TWh and 6.2 TWh of energy were traded in the MI1 and MI2 sessions, respectively. The average purchase price was 75.41 €/MWh in MI1 and 74.87 €/MWh in MI2, in both cases up by more than 6% over the respective prices registered last year.

At the zonal level, the average maximum prices in both MI1 and MI2 were registered in Sicily (96.96 €/MWh and 94.04 €/MWh, respectively), and the lowest prices were registered in the South zone (68.02 €/MWh and 67.54 €/MWh, respectively).

Figure 3.4 Variations in average prices and quantities on the MI in 2012



Source: AEEG elaborations on GME data.

### The Ancillary Services Market

As for the MSD, official figures for 2012 are available in reference to the *ex ante* market. There were 6.2 TWh in step-up bids, up by 31.3% compared to 2011. A peak in purchasing was registered during the month of February, when they reached 0.75 TWh of energy. The amount exchanged for step-down bids, alternatively was 3.7 TWh, which is down by about 25% compared to the previous year. This is another case in which the high point was reached during the month of February, at 0.56 TWh.

The offer remuneration rules employed on the MSD do not allow for summary price calculations in a similar way to the other markets managed by the GME.

### The futures energy accounts platform

The PCE is a bilateral contract registration platform where operators can register the amount and duration of the deliveries for futures contracts up to two months in advance of the physical delivery date, or by making a series of registrations for successive tranches for contracts with longer durations. The PCE, more specifically, permits for the registration of five different types of bilateral contracts - four standard (*baseload*, *peakload*, *off peak*, *weekend*) and one non-standard. Commercial transactions on the Futures Electricity Market (MTE - Mercato Elettrico a Termine) and the Energy Derivatives Delivery (CDE - Consegna Derivati Energia) platform are also registered on the PCE. Generally speaking, each operator sets up one or more Energy Input Accounts (CEI - Conti Energia in Immissione) and one or more Energy Withdrawal Accounts (CEP - Conti Energia in Prelievo), using these to register their buys and sells on the condition that the net balance of each

new registration is a net sale for the first of these, or a net buy for the second. The Account balance determines the amount of energy that can be delivered/withdrawn or sold/bought on the MGP.

The transactions registered for bilateral contracts in 2012 involved a total of 310.3 TWh (+7.7% compared to the previous year). Non-standard contracts are the main contract type with a 57.5% share, which is down compared to the previous period (60.3%), while the underlying volumes grew by 11.4% compared to 2011. There was a more contained increase in the volumes traded through standard contracts (+1.6%), most of which were *baseload* (91.2 TWh) and to a lesser extent *peakload* (10.6 TWh) and *off peak* (9.6 TWh).

### Futures markets for energy

The MTE being run by the GME was set up in November 2008 to provide operators with more flexibility in the management of their own energy portfolio. Sixteen products are traded on the MTE; *baseload* and *peakload* contracts with monthly (three products), quarterly (four products) and yearly (one product) delivery periods. After finishing the negotiation phase, contracts with monthly delivery times are registered in corresponding transactions on the PCE, subsequent to the congruity verifications detailed in the platform regulations. A “cascade” mechanism is provided for contracts with quarterly and yearly delivery times. The volume and number of contracts has been rising steadily. In 2012, a total of 13,262 contracts were traded, corresponding to 54.1 TWh of energy, as compared to 31.7 TWh traded in 2011 and 6.3 TWh in 2010; 51.4 TW of power were traded through *baseload* contracts and 2.3 TWh through *peakload* contracts, which were down by 26.6% compared to the previous year. A net prevalence of the yearly products characterized the trading for both product types.

**Table 3.8 Volumes traded on the Forward Market in 2012**

MW

DURATION	BASELOAD PRODUCTS	PEAKLAD PRODUCTS
Monthly	2,578	55
Quarterly	6,956	20
Yearly	41,856	2612
<b>TOTAL</b>	<b>51,390</b>	<b>2,687</b>

Source: AEEG elaborations on GME data.

### The extent of the Italian market's integration within the European context

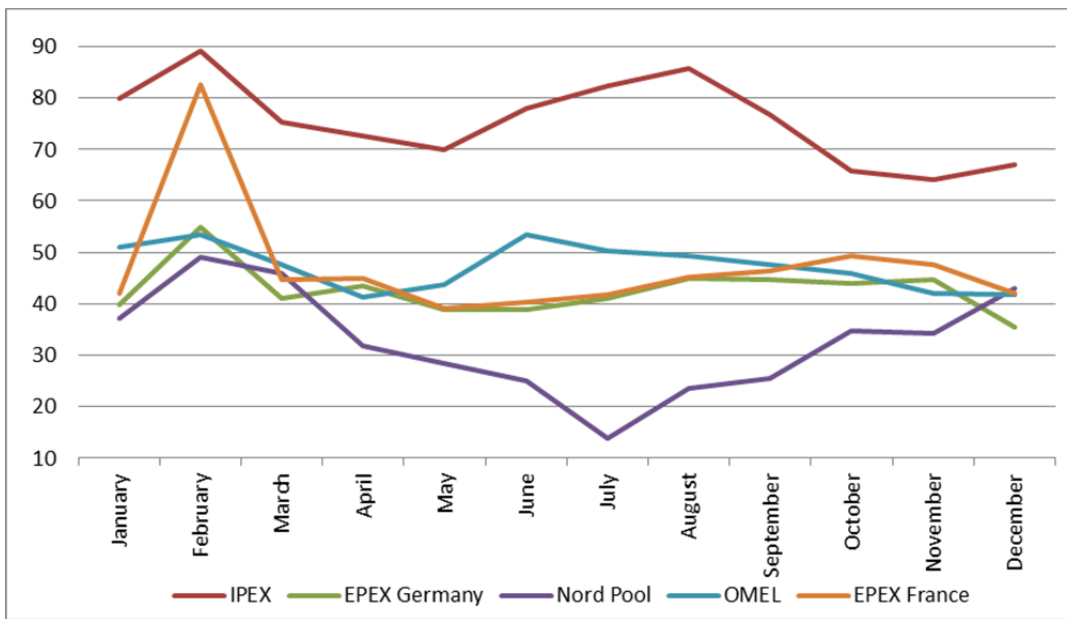
During 2012, the variations in prices on Europe's primary power exchanges were fairly diversified (Fig. 3.5). The IPEX exhibited the highest average annual price (75.52 €/MWh), and was the only price higher than the average quotation for 2011 (+4.6), even consistent with the price of crude. Beginning in the final months of 2012, nevertheless, the wholesale cost of electricity registered a significant decline, although continuing to show sharp oscillations, and there was a decrease in the difference from other European exchanges.

In terms of average national sales prices (fig. 3.6) and in a countertrend compared to last year, there was an increase in the spread between the highest and lowest zonal price. This spread was

nearly 25 €/MWh, representing the difference between the average price registered in Sicily (95.22 €/MWh) and that of the South macro-zone (70.35 €/MWh); in 2011 the spread between these same two macrozones was around 24 €/MWh. An analysis of the changing trends on an annual basis reveals a generalized increase in the average prices for all zones that is still noticeably less than the double-digit changes witnessed in the 2011-2010 period. The greatest increase is in the North macro-zone (+5.6%), while the South is characterized by the most moderate increase in the average sales price (+2%).

**Figure 3.5 Variations in average monthly prices on Europe’s main exchanges in 2012**

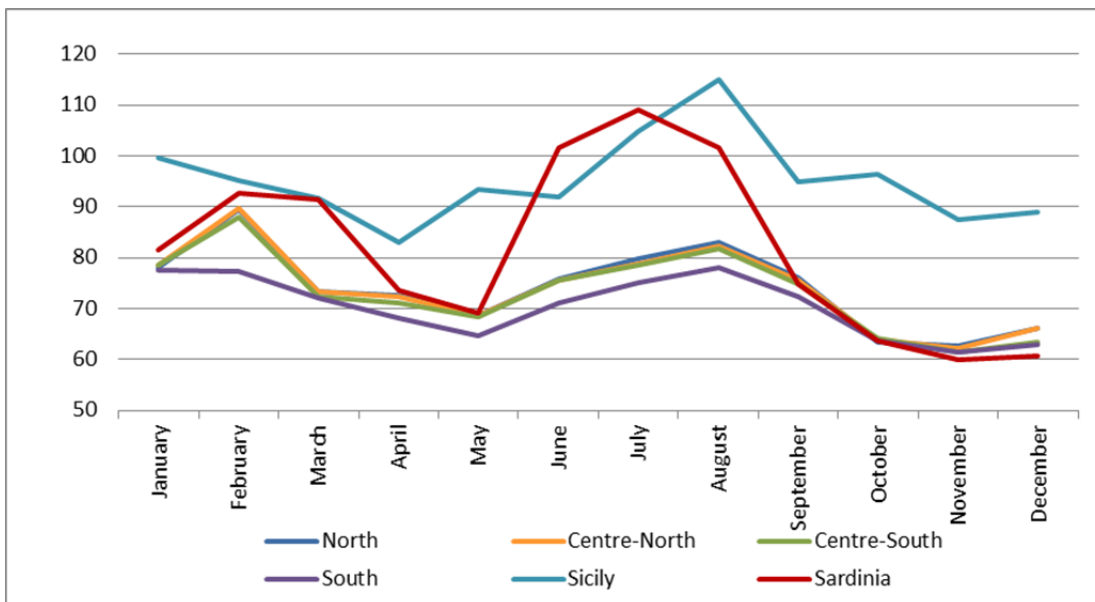
Average *baseload* values; €/MWh



Source: AEEG elaborations on data from the European power exchanges.

**Figure 3.6 Monthly variations in Italian zonal prices in 2012**

€/MWh





Source: AEEG elaborations on GME data.

### **3.2.1.2 Monitoring of transparency levels, including compliance with the transparency requirements, and of the extent and effectiveness of the market opening and competition**

The Authority monitors the electricity spot and futures markets on a periodic basis (weekly or monthly) with support from the Offices of the GME and Terna. As provided by Resolution ARG/elt 115/08, this activity hinges on the analysis of weekly/monthly reports prepared by these Offices in accordance the methods and procedures defined by the Authority, so that they may report on any anomalies and promote further investigations in possible preparation for the opening of investigative proceedings.

Various technical reports and informational studies are also provided for *ex lege*, and the Authority prepares these and submits them to the Parliamentary committees of competence and to the Ministry for Economic Development to provide information on the state of the markets. In specific, the Authority illustrated the operational conditions state of competition in the wholesale electricity markets, among other things, in a report addressed to the competent Parliamentary committees and dated 01<sup>st</sup> March 2012, drafted pursuant to art. 28, paragraph 2 of Law no. 99 of 23<sup>rd</sup> July 2009 (01<sup>st</sup> March 2012, 56/2012/l/com). This report explains the main reasons for the discrepancy between national wholesale prices and the prices in Europe's other main countries, and between the prices registered in the mainland zones and the prices registered on the main islands in both the day-ahead market and the ancillary services market. Additionally, in a confidential report to the Ministry for Economic Development of 29<sup>th</sup> March 2012 (112/2012/l/eel), as provided by art. 11, paragraph 1 of the decree by the Ministry for Economic Development of 29<sup>th</sup> April 2009, the Authority provided an in-depth examination of many electricity market issues that had already been addressed by the Authority in its March 01<sup>st</sup> report to the Parliamentary committees (56/2012/l/com). To be more precise, it presents a quantitative analysis based on the monitoring data for years 2010 and 2011 and regarding:

- the evolution of power generation nationwide, with specific reference to the adequacy of the electricity system on the mainland and the two main islands;
- the evolution of the RTN, with specific reference to the infrastructural action measures needed to reduce congestion on the major networks;
- the evolution of the market structure, with specific reference to the level of competition found in different market zones;
- the variations in prices on the day-ahead market and the ancillary services market, with specific reference to the situation on the two main islands and the effect that the increasing penetration of non-programmable renewable energy resources has on market outcomes and dispatching activities.

Subsequently, in its report on the state of the electricity and gas market and related issues, dated 11<sup>th</sup> October 2012 and pursuant to art. 3, paragraph 10-ter of Decree law no. 185 of 29<sup>th</sup> November 2008, as converted into Law no. 2/09 (410/2012/l/com), the Authority revealed the need to promote greater coordination between the new capacity market, as referred to in Resolution ARG/elt 98/11, and the authorization procedures for the construction and operation of new generation facilities, among other things. In specific, it noted how the timely application of

art. 3, paragraph 5 of Legislative Decree no. 93/11 might help to mitigate the authorization risks in a non-trivial way and to coordinate the authorization procedures with the capacity market. This article, in fact, provides for a declaration of the facilities and infrastructures - as identified by the decree by the President of the Council of Ministers upon the recommendation of the Ministry for Economic Development and with approval from the joint Conference - as being “of public utility, urgent and undeferrable pursuant to current law.” The Authority pointed out the opportunity to qualify every facility under this decree that was in the design phase or that was being redesigned and contracted by Terna through the capacity market referred to in Resolution ARG/elt 98/11. The effect would be to attract new investors to the market, investors who would orient most of their own investment based on the logic of the market. In this context, in fact, the market itself would channel new investors into a less-risky authorization procedure, in terms of time frames and outcomes, providing a system-wide benefit in terms of the correct localization of productive capacity and the reduction of entry barriers to the Italian market.

### 3.2.2 Retail markets

According to the provisional data released by Terna, total consumption (as a net of leakages) amounted to 305 TWh in 2012, nearly 9 TWh less than in 2011 (-2.8%). Table 3.9 provides a breakdown by final use sector.

**Table 3.9 Breakdown of national consumption by final sector**

TWh

PRODUCTIVE SECTOR	2011	2012 <sup>(A)</sup>	% CHANGE
Industry	140.0	131.8	-5.9%
Services	97.7	97.0	-0.7%
Residential	70.1	70.4	0.4%
Agriculture	5.9	5.8	-1.8%
<b>TOTAL</b>	<b>313.8</b>	<b>305.0</b>	<b>-2.8%</b>

(A) Provisional data.

Source: AEEG elaborations on provisional data from Terna.

Table 3.10 provides a breakdown of total sales and total number of customers (approximated by the number of withdrawal points) by market type, calculated based on the Authority’s annual survey of data furnished by electric operators: producers, providers of standard offer and safeguarding regimes, wholesalers and vendors. The sales figures gathered by the Authority (in combination with self-consumption) are representative of a population that reflects 93% of the provisional data of the electricity network operator (“Terna”) with reference to final consumption.

The results (provisional for 2012) of the annual survey reveal that 264 TWh were sold to 37 million customers in the final market last year. Total power consumption fell by 4.2% in comparison to 2011, but this decline was not uniform by customer type or market type.

The residential sector, in fact, purchased a total of 61 TWh, or 1.2% less than the previous year, while the power purchased by the non-residential sector (203 TWh) fell by 5.1% relative to 2011. As in the past, the market with a reference price’s share of the total market fell in both absolute

and relative terms, while the free market's share was up, in spite of the fact that less energy was sold on this market than the previous year.

The volumes of sales fell by 5% in the standard offer market, in fact, and by 10.7% in the safeguarded categories and 3.8% in the free market. The smaller decrease in volumes sold on the free market was entirely due to the noteworthy growth registered by this market in the residential sector: the amount of energy sold to residential customers on the free market, in fact, rose by 16.2% (+20.1% in terms of the number of points served). Non-residential consumption, alternatively, registered a decrease on all markets: 3.7% in the standard offer and 10.7% in the safeguarded, as compared to -5.1% in the free. As a whole, therefore, the market with a reference price bought 26% of all energy sold to the final market in 2012 (27% in 2011), the safeguarded categories absorbed 2% (the same as in 2011) and the free market purchased 72% (as opposed to 71% in 2011).

**Table 3.10 Final sales market in 2012**

As a net of self-consumption and leakage

	VOLUMES (GWh)			WITHDRAWAL POINTS (thousands) <sup>(A)</sup>		
	2011	2012	% CHANGE 2012/2011	2011	2012	% CHANGE 2012/2011
Standard offer market	73,503	69,850	-5.0%	27,821	27,821	0.0%
Residential	49,425	46,664	-5.6%	24,016	23,173	-3.5%
Non-residential	24,078	23,186	-3.7%	4,775	4,648	-2.7%
Safeguarded categories market	5,776	5,161	-10.7%	107	113	5.6%
Free market	196,303	188,941	-3.8%	7,700	8,691	12.9%
Residential	12,565	14,596	16.2%	4,826	5,798	20.1%
Non-residential	183,738	174,345	-5.1%	2,874	2,894	0.7%
<b>FINAL MARKET</b>	<b>275,582</b>	<b>263,952</b>	<b>-4.2%</b>	<b>35,627</b>	<b>36,625</b>	<b>2.8%</b>

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

Source: Annual survey of regulated sectors.

The standard offer regime is for residential customers and small-sized enterprises<sup>66</sup> connected at low voltage and who have not stipulated a sales contract on the free market. The service is guaranteed by dedicated sales companies or distributors with fewer than 100,000 customers connected to their network and in accordance with the economic terms and commercial quality conditions specified by the Authority.

In 2012, sales to customers on the standard offer market amounted to about 69.8 TWh for nearly 28 million withdrawal points, down by 5% in comparison to 2011. Sixty-seven per cent of the volumes were purchased by residential clientele (about 47 TWh) who represent 83% of the total standard offer market in numerical terms (approx. 23 million). Eighty-eight per cent of the residential standard offer market involves residential customers; about 87% of these are represented by customers with up to 3 kW in power. In terms of withdrawal points, the

<sup>66</sup> Pursuant to Resolution no. 156 of 27<sup>th</sup> June 2007, "small-sized enterprises" as distinguished from residential customers have fewer than 50 employees and an annual revenue or total balance sheet of 10 million euros or less.

corresponding percentages are 78% and 93%, respectively. Almost all residential consumption<sup>67</sup> (93.4%) still pay the mandatory two-rate time-of-day tariff, which is the economic condition that varies by time of day and which, since 01<sup>st</sup> July 2010, is applied automatically to customers equipped with re-programmed electronic meters; a trivial 1.7% share pays the two-rate time-of-day tariff by choice, i.e., customers who explicitly requested it sometime before 01<sup>st</sup> July 2010; the remaining 5% of the residential volume is still paying the old one-rate tariff. The average consumption by residential customers being served on the standard offer market was about 2,000 kWh per year.

Any customers not entitled with access to the standard offer regime and who find themselves without a free market sales contract for electricity, even temporarily, are eligible for the safeguarded categories. Since 01<sup>st</sup> May 2008, this service has been supplied by sales companies chosen by adjudication. The safeguarded categories operators selected through the competitive process for the 2011-2013 period are: Enel Energia, Exergia and Hera Comm.

In 2012, just under 113,000 withdrawal points were served under the safeguarded categories regime, as calculated using the pro die criterion (i.e., considering the part of the year they were served). These customers withdrew a total of 5.2 TWh, which is 10.7% less than the energy they consumed in 2011. There was a rise, however, in the number of withdrawal points served in comparison to 2011: there were 107,000 last year. This phenomenon is partly due to the correct counting of year 2012 points by the safeguarded categories operator (points that were mistakenly overlooked in 2011). Nevertheless, both the decrease in withdrawal points and the increase in number of points served can be interpreted as signs of the economic crisis at hand. It is reasonable to suspect, in fact, that the economic difficulties that industrial and commercial customers are undergoing has led to an increase in the number of users in default as well as, as a result, the number of users served in the safeguarded categories as compared to 2011<sup>68</sup>.

Safeguarded categories are almost exclusively concerned with industrial and commercial uses, which withdraw 91.6% of all the energy sold in this market. These customers tend to be connected at medium voltage (61%), although a non-trivial share (28.7%) are connected at low voltage. The remaining 8.4% of sales concern public lighting. The type of customer that typically gains access to this market accounts for the fairly high average withdrawal level of around 46 MWh.

Concerning the free market, the number of sales companies that were active in this market in 2012 began to rise once again, restoring the steady growth trend noted over the past decade. Likewise, the total sales volume fell in comparison to the 7.4 TWh of 2011. The average unitary volume of sales thus fell by nearly 17 percentage points: from 966 to 829 GWh, back to the levels of 2010. The continued growth in the number of operators and the decrease in sales volumes in recent years, mostly due to the economic crisis, brought the average unitary level of sales to about half of that for the year 2000 (1,580 GWh).

Table 3.11 presents the data gathered by the Authority and broken down by customer type; 34% of the volumes were purchased by consumers connected at low voltage, 48% by consumers at medium voltage and 18% by consumers at high or extra-high voltage. In addition, about 90% of these volumes involved "other uses" (uses other than residential or public lighting) through about 2.7 million withdrawal points (31% of the free market total). As already suggested, the proportion of residential consumers on the free market rose in comparison to 2011, in terms of volumes

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<sup>67</sup> Residential customers include: (i) residential households with up to 3 kW in consumption, (ii) residential households with over 3 kW in consumption and (iii) non-residential (temporary) households

<sup>68</sup> It should be remembered, pursuant to Resolution ARG/elt 4/08 of 05<sup>th</sup> January 2008, that if an end user in the free market remains in default, the supplier may terminate the contract, which makes this customer eligible for the safeguarded categories.

(+16%) as well as withdrawal points (+20%). There was a decrease, on the other hand, in consumption by public lighting (-8%) and other uses (-5%).

**Table 3.11 Free market by customer type**

CUSTOMER TYPE	VOLUMES (GWh)		WITHDRAWAL POINTS (thousands) <sup>(A)</sup>	
	2011	2012	2011	2012
<b>LV</b>	<b>64,258</b>	<b>63,681</b>	<b>7,604</b>	<b>8,598</b>
Residential	12,565	14,596	4,826	5,798
Public lighting	5,161	4,823	212	197
Other uses	46,533	44,262	2,566	2,603
<b>MV</b>	<b>92,291</b>	<b>91,502</b>	<b>95</b>	<b>93</b>
Public lighting	382	275	1	1
Other uses	91,908	91,227	94	92
<b>HV and EHV</b>	<b>39,754</b>	<b>33,758</b>	<b>1</b>	<b>1</b>
Other uses	39,754	33,758	1	1
<b>TOTAL</b>	<b>196,303</b>	<b>188,941</b>	<b>7,700</b>	<b>8,691</b>

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

Source: Annual survey of regulated sectors.

In the **residential** category, the largest class of consumption was between 2,500 and 3,500 kWh/year, which accounts for 24% in terms of the number of customers and 28% in terms of withdrawals. Average consumption according to the free market figures is slightly higher than for the residential customers served under the standard offer regime (2,500 kWh). Approximately 765,000 (13%) of the nearly 6 million residential customers signed up for dual fuel contracts, purchasing a total of 12% of the energy sold to the residential category in the free market. These customers show an average consumption of approximately 2,300 kWh/year. Disaggregation of the customers by the tariff applied, and also available for the free market, reveals a net preference for the one-rate contract modality, which was chosen in nearly half the cases (48%). Thirty-eight per cent of the customers chose the two-rate time-of-day modality and only 14% opted for the multi-rate modality.

The volume of sales for **non-residential** customers was concentrated in the higher consumption classes; about 0.4% of the clientele consumes more than 2,000 MWh per year, for a total of 92 TWh (52.8% of total sales in the related market segment), while just under half of the customers consume less than 5 MWh per year. *Dual fuel* contracts are not very common for non-residential clientele: about 36,500 contracts out of a total of nearly 3 million contracts, and 2.9 of the total of 174.3 TWh.

A market share analysis in the sales to end users sector reveals the high concentration in the standard offer market despite the approximately 140 operators at work within it. The Enel Servizio Elettrico company remains the primary operator with an 85.4% market share, followed by Acea Energia (4.5%), A2A Energia (3.7%) and Iren Mercato (1.4%). The shares of other operators are all less than 1%.

The free market presents a lower degree of concentration than the standard offer market. In 2012, in fact, the combined share of the three main operators (Enel, Edison and Eni) was 34.3%. The leading operator is the Enel group, whose market share of 20.3% showed a slight upturn

relative to 2011, following years of adjustments (19.3% in 2011 opposed to 19% in 2010 and 27% in 2009). The share held by Edison, in contrast, was still in contraction and fell to 9% from the 11.1% of 2011 and the 13% of 2010.

In the *retail* market as a whole, two corporate groups achieved market shares greater than 5% in 2012: Enel (37.9%) and Edison (6.4%). These were followed by the Acea group, with a market share of 4.3%, and Iren (3.7%), which was just ahead of Eni (3.6%). The top ten operators (corporate groups) account for 70% of total sales. Table 3.12 presents the details by voltage level.

**Table 3.12 Retail market: market shares of the top three operators by voltage level**

VOLTAGE LEVEL	NO. OPERATORS WITH 5% SHARE	COMBINED SHARE TOP 3 OPERATORS
Low voltage (residential)	1	85%
Low voltage (non-residential)	1	55%
Medium voltage	5	25%
High and extra-high voltage	6	13%
<b>TOTAL</b>	<b>2</b>	<b>49%</b>

Source: Annual survey of regulated sectors.

In 2012, the Authority continued its efforts in support of more and more intense protection of consumers and users in the electricity and gas markets. Regulatory actions have contributed to an effective strengthening of the end user's capacity to make well-informed choices between the different offers on the market, and there has been a reduction in the types of informational asymmetries that, due to the specificity and characteristics of the services being offered, could adversely affect the end user's capacity to make the best of the opening of these markets to competition.

### 3.2.2.1 Monitoring retail market price levels, transparency levels and the extent and effectiveness of the market opening and competition

On the subject of overseeing the sales prices on the retail market, the Authority carried out two surveys:

- one which was conducted pursuant to Resolution ARG/elt 167/08 of 20<sup>th</sup> November 2008, and involving a quarterly survey of the monthly figures for the prices billed to residential and non-residential customers differentiated by consumption class and market type (market with a reference price and free market);
- one which was conducted as part of the annual survey on regulated sectors, and involving the survey of the figures for the previous year distinguished by miscellaneous detailed categories (market type, sector and consumption class, type of contract applied).

With Resolution ARG/com 151/11 of 03<sup>rd</sup> November 2011, the Authority approved the *Integrated text on monitoring the retail sales markets for electricity and natural gas* (TIMR), which requires the final vendors of electricity (who serve more than 50,000 withdrawal points) to provide the Authority with quarterly figures on the average monthly prices being applied in the final market for electricity, along with a number of other indicators (see next paragraph). Beginning in January

2012, and within the context of the retail monitoring system, the Authority's gathering of the average prices pursuant to Resolution ARG/elt 167/08 was partially merged with the mandatory vendors pursuant to the TIMR.

As for the monitoring of the application of the two-rate time-of-day prices, art. 6-ter of the Integrated text on sales ("TIV") provides for each operator in the standard offer market to provide the Single Buyer with quarterly communications (for each month of the quarter in question) of the PED fee applied to each customer served, distinguishing between withdrawal points subject to rates differentiated by time of day and points subject to one-rate payments. The customers for whom the standard offer provider submitted, prior to the application of PED payments differentiated by time band, a report on consumption differentiated by time band, month or groups of months also need to be reported. The Authority used this information for control purposes during the first implementation phase of two-rate time-of-day prices for residential customers.

In 2012, according to the still provisional data gathered by the Authority during the annual survey on regulated sectors, the average free market price for the supply of electricity was 113.06 €/MWh. This price was generated by asking the free market operators to include only those components that refer to energy, dispatching, network leakage, imbalances and the commercialization costs of sales. The piece of data refers, as it did in 2011, to the total for free market offers and takes all types of low voltage customers into consideration. The average price for sales under the standard offer regime, alternatively, was 107.93 €/MWh. This price was generated by asking the standard offer regime operators to include only those components related to the purchase and dispatching of electricity, the commercialization costs of sales and the equalization components. Also for 2012, therefore, the Authority is already subjecting the price levels confirmed on the free market and the market with a reference price to closer examination as part of a dedicated survey, which is addressed in more detail later in this text. It is worth noting, nevertheless, how the offers on the free market are highly articulated, often including accessory services (for example, insurance policies or energy-savings instruments) and/or price structures, akin to the fixed price ones, involving mechanisms for updating the supply prices that differ from the ones found in the standard offer market, where this takes place on a quarterly basis.

The average free market price for the supply of electricity in 2012 is broken down for residential and non-residential clientele, respectively, as illustrated in tables 3.13, 3.14, 3.15 and 3.16.

**Table 3.13 Prices for residential customers in the free market broken down by consumption class for 2012<sup>(A)</sup> – cost of supply**

€/MWh

CLASS OF CONSUMPTION	RESIDENTIAL CUSTOMERS TOTAL		WITH DUAL FUEL SUPPLY	
	VOLUMES (GWh)	PRICE <sup>(B)</sup>	VOLUMES (GWh)	PRICE <sup>(B)</sup>
<1000 kWh	420	157.69	56	121.66
1000-1800 kWh	1,658	119.06	262	100.32
1800-2500 kWh	2,595	116.02	374	100.78
2500-3500 kWh	4,117	113.50	510	100.77
3500-5000 kWh	3,555	112.40	375	101.44
5000-15000 kWh	2,113	110.00	201	99.32
>15000 kWh	137	102.76	10	102.14
<b>RESIDENTIAL CUSTOMERS TOTAL</b>	<b>14,596</b>	<b>114.97</b>	<b>1,788</b>	<b>101.35</b>

(A) Provisional data.

(B) The price is calculated from the components for energy, dispatching, network leakage, imbalances and the costs of commercialization.

Source: Annual survey of regulated sectors.

**Table 3.14 Prices for residential customers in the free market broken down by tariff type in 2012<sup>(A)</sup> – cost of supply**

€/MWh

TIME-OF-DAY TARIFFS	VOLUMES (GWh)	PRICE <sup>(B)</sup>
One-rate	5,588	114.65
Two-rate	7,010	114.30
Multi-rate	1,999	118.26
<b>RESIDENTIAL CUSTOMERS TOTAL</b>	<b>14,596</b>	<b>114.97</b>

(A) Provisional data.

(B) The price is calculated from the components for energy, dispatching, network leakage, imbalances and the costs of commercialization.

Source: Annual survey of regulated sectors.

**Table 3.15 Prices for non-residential customers in the free market broken down by voltage type in 2012<sup>(A)</sup> – cost of supply**

€/MWh

VOLTAGE LEVEL	NON-RESIDENTIAL CUSTOMERS TOTAL		WITH DUAL FUEL SUPPLY	
	VOLUMES (GWh)	PRICE <sup>(B)</sup>	VOLUMES (GWh)	PRICE <sup>(B)</sup>
Low voltage	49,085	112.50	811	100.47
Medium voltage	91,502	95.10	569	92.15
High and extra-high voltage	33,758	81.47	35	98.07
<b>NON-RESIDENTIAL CUSTOMERS TOTAL</b>	<b>174,345</b>	<b>97.36</b>	<b>1,415</b>	<b>97.06</b>

(A) Provisional data.

(B) The price was calculated from the components for energy, dispatching, network leakage, imbalances and the costs of commercialization.

Source: Annual survey of regulated sectors.

**Table 3.16 Prices for non-residential customers in the free market broken down by tariff type in 2012<sup>(A)</sup> – supply cost**

€/MWh

TIME-OF-DAY TARIFFS	VOLUMES (GWh)	PRICE <sup>(B)</sup>
One-rate	62,790	95.89
Two-rate	19,312	97.28
Multi-rate	92,243	98.37
<b>RESIDENTIAL CUSTOMERS TOTAL</b>	<b>174,345</b>	<b>97.36</b>

(C) Provisional data.

(D) The price was calculated from the components for energy, dispatching, network leakage, imbalances and the costs of commercialization.

Source: Annual survey of regulated sectors.



### Monitoring of transparency levels and the extent and effectiveness of market opening and competition

The monitoring of retail markets responds to the need to monitor the changes in the retail market and is provided by Legislative Decree no. 93/11 (discussed extensively in last year's Annual Report, to which the reader should refer). The system for monitoring the retail sales markets is designed to enable the Authority to regularly and systematically observe the operational conditions of retail sales, including the market's degree of openness, competition and transparency as well as the degree of participation by end users and their level of satisfaction.

As we have just seen, the Authority defined the obligated subjects in Resolution ARG/com 151/11, consisting of the vendors and distributors with the necessary characteristics (in terms of number of points served) and who are required to submit basic information for the calculation of the indicators<sup>69</sup> by the Authority, in addition to the minimum set of market indicators and related calculation methods. It also defines the underlying survey parameters (the data to collect, the periodicity and the methods) and the procedures for publishing and updating the outcomes of the retail sales monitoring. The first Annual Report will be published by the Authority by 30<sup>th</sup> July 2013 and will address the indicator measurements for year 2012 together with the related analysis of developments concerning the operating conditions for the retail sales markets, with specific reference to the degree of openness and the levels of competitiveness and transparency as well as customer participation and satisfaction levels.

The *retail* monitoring system has merged, since January 2012, with the data gathering conducted by the Authority in regard to the evolution of the standard offer regime for end users, in accordance with the provisions of Law no. 125 of 03<sup>rd</sup> August 2007, and as confirmed by Legislative Decree no. 93/11 (standard offer regime and safeguarded categories) and with the information concerning the phenomenon of default/delinquency of payment.

In specific, the Authority posts the developments regarding customers served in the standard offer market on its website based on the monthly data submitted by the standard offer market operators. The published information, which is aggregated by quarter and geographic zone, concerns the number of withdrawal points served under the standard offer regime, changeovers to the free market (plus the details of switches to companies associated with a standard offer operator) and any shifts back from the free market to the standard offer regime. Changeovers between different free market suppliers were not counted as a switching of supplier.

As for the information on defaults, the Authority included several summaries of the developments in suspensions within consultation document 511/2012/R/eel of 29<sup>th</sup> November 2012, the goal being to provide the first indications on the evolution of this phenomenon among small-sized customers. The data reported the percentage ratio of the number of suspension requests presented by electricity sales operators participating in the retail market monitoring to the number of withdrawal points they serve, as differentiated by type of end user (residential, non-residential) and geographic area in reference to 2010, 2011 and semester one of 2012.

The analysis of the data that was gathered is essential for investigating the market structure and its operation and for intervening wherever potential anomalies are detected in the operation of the market itself. In this context, the data analysis of the average prices applied to small-sized end

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<sup>69</sup> The indicators are synthetic formulas that depict the phenomena being subjected to *retail* monitoring.

users in the free market revealed various cases in which these prices were higher than the prices applied in the standard offer regimes during 2011. The Authority consequently launched, with Resolution 317/2012/E/com of 26<sup>th</sup> July 2012, a fact-finding investigation on the free market and the retail conditions for electricity and natural gas sales to small-sized customers, the goal being to verify the actual existence of higher prices on the free market and to identify the underlying causes and determine specifically whether one of these causes might be related to the poorly-informed state of the consumers.

Lastly, for year 2013, the Authority once again identified the parties required to submit the monitoring data by posting a list of these subjects on its website. To be precise, the total number of obligated subjects is 115. In reference to the electricity sector, 13 electricity distributors and 46 electricity suppliers are subject to this requirement. Only four of the latter group are mono-supply, with the remainder selling both electricity and gas. The data gathering for the period starting on 01<sup>st</sup> January 2013 began in April 2013.

As for the measures being taken to promote effective competition, the Integrated Information System (SII) for managing the information flows of the electricity and gas markets is also worth mentioning, and its first phase of implementation was started and finished during 2012. It is founded on a database of withdrawal points and end user identification data, and the plan for its application has been subdivided into three successive periods:

- the initial period, which involves the population of the Official Central Registry (RCU) of the SII and the provision of the SII's initial services, which are identified in consideration of the development needs of the subsequent phases;
- the intermediate period, during which most of the SII's processes gradually become available, though possible limited to "minimum" configurations;
- the final period, characterized by the provision of all SII services in their full configuration and with regularized process management.

In the spring of 2012, the Authority began the preparatory activities for the initial phase<sup>70</sup>. In specific, the Authority approved the operating rules for the SII and:

- identified the subjects that need to be certified for the SII as users;
- established that the certification procedures shall be finalized by 31<sup>st</sup> December 2012 to support the initiation of phase 1;
- defined the procedures for populating and updating the RCU. The Authority decided that the RCU's data set upon completion of the first phase of population should represent the starting point for the SII's subsequent management of any changes that are made in the relationship between a withdrawal point, the users affected by that point and the end user/owner of that point (for example, subsequent to processes involving the activation and deactivation of points, switching).

Consultation document 481/12/R/com of 12<sup>th</sup> November 2012 illustrates detailed guidelines for the most important processes to be entrusted to SII management during the implementation of phase two. These include:

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<sup>70</sup> With Resolutions 79/2012/R/com of 08<sup>th</sup> March 2012 and 132/2012/R/com of 05<sup>th</sup> April 2012.

- services designed to calculate and provide the data of significance for purposes of monthly *settlement* (former Integrated text on settlement - TIS records, allocation coefficients for the withdrawals attributed to each user of dispatching or CRPU, residual area withdrawal values or PRA and delta PRA), that are currently provided to the users of dispatching within the context of classic bilateral relationships with distributors and with Terna;
- the *pre-check* by vendors interested in requesting *switching* at a specific withdrawal point, the combination of withdrawal point and end user identification data and the state of activation of the point.

In the same consultation document, the Authority also proposed to revise the methods used to identify and update the relationship between withdrawal point, supply contracts for transmission and distribution (transport) and dispatching services, sales contracts and end users in order to make it possible to use the SII to provide new services designed for the commercial management of the customer. As a first step in this revision, it was proposed that the vendors of electricity to end users, i.e., vendors who are not engaged in the dispatching and transport of electricity for which certification is required, can also register themselves with the SII in order to use the new commercial customer management services, including the pre-check mentioned above.

In Resolution 65/2012/R/eel of 01<sup>st</sup> March 2012, the Authority also approved directives on the issue of standardizing the information flows involved in the periodic metering of withdrawal points, hourly or otherwise along with the related corrections, as well as the information exchanged in the event of switching. The purpose of this measure is to favour the effective scheduling of all the phases needed for any computer upgrades that might be needed in order to ensure the best outcome of the exchanges, which are also functional to the billing of services, and the measure also provides a differentiated time frame for the entry into service:

- 01<sup>st</sup> February 2013 for flows involved in the periodic metering of withdrawal points based on time slots (as per paragraph 18.3 of the TIV) and the associated adjustments (as per paragraph 19.1 of the TIV), as well as for the related provisions referred to in points 1 and 2 of Resolution 65/2012/R/eel;
- 01<sup>st</sup> March 2013 for flows involved in the periodic metering of withdrawal points not based on time slots (as per paragraphs 18.4 and 18.5 of the TIV) and the associated adjustments (as per paragraph 19.1 of the TIV), as well as for the related provisions referred to in points 1 and 2 of Resolution 65/2012/R/eel;
- 01<sup>st</sup> April 2013 for the remaining flows and the related provisions referred to in point 3 of Resolution 65/2012/R/eel.

### Switching

The annual survey of electricity distributors also posed several questions on switching, which is about the number of customers<sup>71</sup> who switched suppliers during the 2012 calendar year<sup>72</sup>.

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<sup>71</sup> For ease of discourse, the text makes generic reference to 'customers.' It should be specified, however, that a number of redelivery points are involved in the case of transport users, and a number of metering groups are involved in the case of distribution users.

<sup>72</sup> The questions were framed as to evoke the phenomenon as it has been delineated by the European Commission. The questionnaire that was used was recycled from past surveys of *switching* activities, understood as the number of changes in supplier during a given period of time (year), including:

According to the data provided by distributors, switching was still quite lively in the electricity market during 2012 and was consistent with the values recorded the previous year: the overall rate was 26.4% in terms of volume distributed and involved 7.6% of the clientele (Table 3.17). Six point four per cent of residential customers and 12.1% of non-residential customers switched

suppliers. In terms of the volumes withdrawn, the corresponding percentages rise to 8.3% and 31.4%, respectively. For non-residential clientele, the most dynamic segment in terms of withdrawal points was that of customers connected at medium voltage.

**Table 3.17 End user rates of switching in 2012**

CUSTOMER TYPE	VOLUMES	WITHDRAWAL POINTS
Residential	8.3%	6.4%
Non-residential	31.4%	12.1%
<i>of which:</i>		
- low voltage	23.2%	11.9%
- medium voltage	36.4%	27.7%
- high and extra-high voltage	34.3%	17.7%
<b>TOTAL</b>	<b>26.4%</b>	<b>7.6%</b>

Source: Annual survey of regulated sectors

### Complaints and reports

The Energy Help-Desk, which is managed in collaboration with the Single Buyer company, has been conducting material, informational and fact-finding activities, including preparatory and instrumental studies, since 01<sup>st</sup> December 2009 for purposes of the evaluation of complaints, applications and reports submitted by end users and consumer groups<sup>73</sup>. This structure was confirmed by art. 44, paragraph 4 of Legislative Decree no. 93/11, in implementation of which the Authority indicated the Desk to be a tool for ensuring the effective processing of complaints, including complaints from consumer-producers (aka 'prosumers'). This option, which led to the innovation of the Desk's functions and tasks on the heels of new European legislation, was considered preferable and much less burdensome than other tools or the creation of structures ex novo.

During 2012, the Authority also defined two special complaint procedures that attribute the Desk with specific role and predefined response times: in specific, this is about the complaint procedure for unsolicited contracts<sup>74</sup> and the information request procedure for the indemnification system<sup>75</sup>. The Authority thus implemented the cited art. 44, paragraph 4 in on the processing of

- *re-switches*: when a customer changes for a second (or subsequent) time during the same time period;
- *switch-backs*: when a customer returns to the first or other previous supplier;
- *switches* to one of the *incumbent's* competitors, or vice versa.

When a customer changes area of residence, the switch is only counted if they use a different supplier than the existing incumbent in the new area; in addition, a change in economic conditions with the same supplier is not equated to a switch, even when a new contractual formula is chosen or for changes from a reference price to a non-reference price offered by the same supplier or one of its subsidiaries.

<sup>73</sup> As provided by Resolution GOP 28/08 of 14<sup>th</sup> May 2008.

<sup>74</sup> As referred to in part III of Annex A to Resolution 153/2012/R/com of 19<sup>th</sup> April 2012.

<sup>75</sup> As referred to in Resolution 99/2012/R/eel of 22<sup>nd</sup> March 2012.

complaints and approved, in a subsequent implementation measure, the operational Help Desk project for the three-year period of 2013-2015<sup>76</sup>. This project was needed to respond to the significant quantitative increase in the number of activities to be carried out, to strive for higher quality levels in the performance of the Desk's activities and to strengthen the effective complaint resolution capacity and the monitoring and reporting of problems and malfunctions in the market, in addition to enabling the Authority to develop new regulations and prepare enforcement measures in response to the problems that are learned of during the evaluation of complaints.

As a consequence, new operational rules were approved for the Desk<sup>77</sup> in order to cultivate the functions and duties outlined above and to guarantee the punctuality and comprehensiveness of operator responses to the Desk's requests, which are indispensable for the effective processing of complaints; in other words, to overcome the lateness of responses witnessed in previous years, which demanded intensive solicitation activities by the Authority and in some cases even the Authority's adoption of warning measures.

According to the new procedures, customer complaints must be sent to the operator before being submitted to the Desk. To circumvent any problems associated with the irregular or incomplete processing of complaints, more precise definitions of "complaint", "irregular complaint" and "incomplete complaint" have been provided along with the regulation that intervened, in the mean time, on the issue of the complaint response times of suppliers and distributors<sup>78</sup>.

The number of "cases" (complaints, requests for information and reports) received by the Desk in 2012 adds up to 35,984 (81% submitted by residential customers and 19% by non-residential customers), reflecting a 6% decrease compared to 2011. Most of this decrease was concentrated in cases related to the bonus (-51.8%), which were halved in all specific sectors due to the action measures to refine the regulations in this area.

What follows is an analysis of the Energy Help-Desk's management of complaints, cases and reports that do not meet any of the preconditions for requiring their transmission to the Authority. According to the provisions of these regulations, in fact, the Energy Help-Desk processes complaints by requesting the necessary information from the operators and by providing the customers, their consumer groups and the operators with the instructions needed to resolve the problems that are reported. The Desk, therefore, does not transmit complaints to the Authority for further assessment until all of the preconditions have been fulfilled.

From 01<sup>st</sup> January 2012 to 31<sup>st</sup> December 2012, there were a total of 19,993 communications regarding the electricity sector, equal to 55% of the total. This reflected an increase in relation to 2011, when this category of communications accounted for 47.2% of the total. Very minor changes were detected in the proportions of complaints (94.16%), requests for information (5.78%) and reports (0.06%). The number of reports was extremely small in both numerical terms and percentagewise.

The most frequent subjects of the communications received in 2012 were as follows: billing 5,894 (29%), market 3,584 (18%), bonus 2,484 (12%), contracts 3,476 (17%), technical quality (2,204 (11%), connections and works 954 (5%).

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<sup>76</sup> With Resolution 323/2012/E/com of 26<sup>th</sup> July 2012.

<sup>77</sup> The proceedings to adopt the new regulation were initiated by Resolution 399/2012/E/com of 04<sup>th</sup> October 2012. After the related consultation (consultation document 463/2012/E/com of 08<sup>th</sup> November 2012), the regulation was approved with Resolution 548/2012/E/com of 20<sup>th</sup> December 2012.

<sup>78</sup> By means of the TIQV, which is the Integrated text on electricity service quality - TIQE, Regulation of gas metering and distribution service quality for regulatory period 2009-2012 - RQDG.

**Table 3.18 Subjects of the communications received by the Energy Help Desk**

Year 2012

SUBJECTS	NUMBER	%
Billing	5,894	29%
Market	3,584	18%
Bonus	2,484	12%
Contracts	3,476	17%
Connections/Works	954	5%
Prices and tariffs	554	3%
Technical quality	2,204	11%
Metering	439	2%
Commercial quality	194	1%
No jurisdiction	206	1%
<b>TOTAL CLASSIFIED</b>	<b>19,989</b>	<b>100%</b>
Non classified	12	-
<b>TOTAL</b>	<b>20,001</b>	<b>-</b>

Source: AEEG elaborations on Energy Help-Desk data.

Compared to 2011, the increase in billing-related communications and the sharp decrease in ones related to the bonus are particularly noteworthy, as well as the appreciable rise in the contracts and technical quality subject areas, while the market topic has remained essentially unchanged. Most of the communications about billing concern issues with the correct quantification of consumption, billing periods and equalizations; most of those related to the market subject refer instead to issues with the effective respect for the commercial code of conduct approved by the Authority, double billing and the regularity of switches in supplier. Starting on 01<sup>st</sup> June 2012, The market subject area also includes any complaints managed through the special procedure for unsolicited contracts. Communications concerning the electricity bonus focused on failed disbursement of the bonus, issues with complaint validation by the distributor, the procedures for presenting complaints to the Local Government, tax assistance centres or other institutions designated by the Local Governments and the rejection of complaints because of inconsistent information. As for the communications related to contracts, the main issues that arose concern the withdrawal or termination of supply, transfers and default/delinquency, including requests for information related to default payment within the context of the indemnification system. In reference to the technical quality subject area, lastly, most of the communications that were received concern outages (especially related to the weather events of February 2012) and voltage quality (including micro-outages, aka “voltage dips”).

### 3.2.2.2 Recommendations on final sales prices, surveys, inspections and impositions of competition-promoting measures

#### Final sales prices

In Report 410/2012/I/COM of 11<sup>th</sup> October 2012, the Authority discusses current issues in the electricity and gas markets and advances proposals for the development of market competition and for consumer protection. The consumer protection measures, as we might recall, include the provision referred to in art. 35 of Legislative Decree 93/11, in implementation of directives 2009/72/EC, 2009/73/EC and 2008/92/EC, which confirmed, among other things, the option to define special price protection tools for a transitional period for small-sized customers in order to guarantee civilian customers and small-sized enterprises the right to continuous electricity and gas supplies at reasonable prices.

The components related to the price liberalization phases of the electricity supply chain for customers subject to the standard offer (i.e., the components that cover supply costs and commercialization) are defined using procedures that are designed not to skew the market dynamics. The prices involved in supply are currently determined, in fact, by applying simple calculations to the prices registered in the wholesale market without any special discretionality and, as a result, without any distortion of market dynamics. The part related to commercialization costs, on the other hand, for which there is no market value on which to base the calculation, uses a criterion based on the costs that a hypothetical new operator would encounter when entering the electricity sales to small-sized customers segment.

With reference to the standard offer regime cited above, in recommendation paper 410/2012/I/COM the Authority found that the economic conditions of supply still need to be determined in order to maintain the prices of electricity and gas supplies for end users at reasonable levels, considering how the market conditions are still characterized by an insufficiency of competitive dynamics. These measures are transitional in nature, however, with their own dynamic and evolutionary character, being inspired by the criteria of gradualness and progressiveness while waiting for the contextual conditions that justified their adoption to be overcome. The actions by the regulatory authority to protect small-sized customers, therefore, will need to evolve towards a situation in which different forms of price protection are no longer needed due to the growth in the market knowledge of the customer, who needs to play a more and more active and informed role, and the adequate development of competition and the presence of fully operational markets.

From this perspective, the continuous monitoring of market dynamics conducted by the Authority on a period basis, as provided by the TIMR (cfr. paragraph 3.2.2.1), will make it possible to acquire the elements needed for the progressive revision of existing structures through the continuous opening of the retail market as additional action measures are designed to stimulate competition in the retail market (see also below, 5.1).

#### Conducting of surveys, inspections and impositions of competition-promoting measures

The competences and powers of the regulatory authority in this area are illustrated in table 3.3.

The activities carried out by the Authority in the electricity sector in 2012 include three fact-finding surveys and, as usual, an intense monitoring and control program in the form of on-site inspections at the companies and requests for information.

In July 2012, during its monitoring of the Sardinia zone during the initial months of 2012, the Authority detected an almost regular and consistent positive difference between the amount of power that was programmed, according to the day-ahead market, for withdrawal by a group of dispatching users in withdrawal (UDD in withdrawal) and the amount of power that was metered as being withdrawn for these users. This difference reflected a systematic imbalance that seems difficult to ascribe to the inevitable errors in the programming of consumption. During the same month, it was also discovered that the imbalance price applied to the consumption was being calculated by Terna, including a consideration of the prices and amounts for the usage of secondary reserves, the extent of which depends only partially, at most, on the magnitude and sign of the aggregate imbalance for the electric system in a given zone.

On the basis of these findings, the Authority decided, with Resolution 342/2012/R/eel of 02<sup>nd</sup> August 2012, to launch a **fact-finding investigation to ascertain possible speculative conduct** by one or more of the dispatching users in withdrawal and designed to exploit the methods being used to calculate the imbalance prices. With this same resolution, the Authority took action with urgent measures designed to prevent this type of conduct and to mitigate its effect on the expenses of the system, and ordered the specific exclusion of the amounts and related prices for secondary reserve usage from the mechanism used to calculate the imbalance prices. In regard to the regulations on effective imbalances, the Authority is preparing a series of measures designed to refine the current regulations. The nature and extent of the technical limitations of the Sardinian electric system and the likely repercussions of such limitations, as much for its safe operation as for the proper operation of the spot market for electricity (MGP, MI and MSD), will instead be subject to a dedicated investigation within the context of a larger fact-finding investigation that was launched by the Authority with Resolution 401/2012/r/eel of 04<sup>th</sup> October 2012. This investigation, which is currently under way, is scheduled for completion sometime in the second half of 2013.

The analysis of the free market structure and its operation revealed that the prices being applied to small-sized consumers in this market in 2011 were in a variety of cases higher than the prices being applied under the standard offer regime. As a consequence, the Authority launched, with Resolution 317/2012/E/com of 26<sup>th</sup> July 2012, a **fact-finding investigation on the free market and retail conditions for the sale of electricity and gas to small-sized customers**, with the goal being to verify the actual existence of higher price levels in the free market and to identify the underlying causes, evaluating in specific whether one of these causes might be related to the poorly-informed state of the consumers.

With Resolution 240/2012/E/efr of 07<sup>th</sup> June 2012, the Authority launched a **fact-finding investigation on the determination of consumption for the auxiliary services of electricity generation facilities**. This investigation falls within the context of Authority activities that aim for the continuous improvement, through the investigation and verification of applied regulatory experience, of the rules in terms of their completeness, simplicity and effectiveness.

The investigation became necessary in order to study the definition of “auxiliary generation services,” which refers to the electricity consumed by the auxiliary equipment used to operate a power plant. This type of consumption takes on relevance for a variety of technical-administrative reasons, including the incentive mechanisms for electricity production from renewable energy resources that disburse incentives based on net production. The primary aim of the investigation, therefore, was to identify the technical and installation characteristics of the auxiliary services for the main types of electricity generation facilities, characteristics which also serve for the planning of subsequent action measures by the Authority.



The investigative proceedings took the form of:

- meetings and interviews with businesses and sector-based associations, and the acquisition of documents and written notes;
- the convocation of a joint hearing with the participation of 33 businesses and 12 associations;
- requests for information submitted to the Gestore dei servizi energetici (GSE).

The investigative proceedings, which began in June 2012, were completed in October 2012 with the approval of the summary of activities (Resolution 442/2012/e/efr of 25<sup>th</sup> October 2012). The information acquired through the fact-finding investigation served as a foundation for the proceedings in which the Authority identified the criteria for the calculation of auxiliary services within the context of the new incentive systems for electricity from renewable energy resources, as provided by ministerial decrees of 05<sup>th</sup> and 06<sup>th</sup> July 2012 (Resolution 47/2013/R/efr of 07<sup>th</sup> February 2013).

During 2012, the Authority also carried out an intense monitoring and control campaign to check and verify the conditions of supply for public utility services (service quality, safety, free access to the networks, markets, tariffs, tariff add-ons, production incentives, etc.) and to determine the benefits of, and improvements for, the services being supplied to customers and to final consumers. Based on the finding of these inspection activities, the Authority may adopt prescriptive measures (cessation orders for behaviors detrimental to users, orders to comply with) and sanctions, restoration commitments for cases when non-compliance or normative violations are ascertained, and establish the administrative recovery of unduly earned amounts.

One hundred thirty inspections and requests for information were executed by the Authority in 2012 (in collaboration with other institutions and the Guardia di Finanza (Italian Tax Police) in its supervision and monitoring of the application of energy regulations, and 52 of these involved the electricity sector. The regulation of service quality and the incentives for energy production from renewable energy resources were the main action areas.

In the field of incentivized electricity generation facilities, a total of 218 facilities were inspected from 2005 and up until 31<sup>st</sup> March 2013, representing about 15,600 MW of total power installed. Since 2005, these inspections have triggered the initiation of administrative recovery actions for approximately 282 million euros in unduly earned incentives. Out of this total, 142.3 million euros have already been paid by the entities subjected to ascertainments and have led to a reduction of bills (Account A<sub>3</sub>), including 32 million euros that are still pending a ruling by the Council of State. The administrative recoveries that were applied relate to larger, unduly earned burdens on the electricity system, and these are applied against the electric bills and contribute to reducing the current and future need (since they also affect periods subsequent to the ones involved in the ascertainment) of the more important general system burden that now weighs on electric bills (tariff component A<sub>3</sub>).

During 2012, controls were also initiated in the field of photovoltaic generation facility connections with the electricity network, a new investigative segment, in order to verify the proper application of the rules for connecting with the network (Integrated text of active connections - TICA), with special regard for the provisions on entry into service.

### 3.3 Security of supply

#### 3.3.1 Monitoring the balance of electricity supply and demand

Monitoring of the balance of electricity supply and demand is not under the competence of the Authority: pursuant to art. 1 of Legislative Decree no. 93/11, this competence is attributed to the Ministry for Economic Development (MSE).

#### 3.3.2 Monitoring investments in generation capacity with reference to the security of supply

Pursuant to Legislative Decree no. 93/11, the following investment capacity monitoring functions have been attributed to the MSE:

- operational security of the networks (art. 7 Directive 89/2005/EC);
- investments in interconnection capacity over the next 5 or more years (art. 7 Directive 89/2005/EC);
- estimated supply and demand for the next 5 years and 1-15 years (art. 7 Directive 89/2005/EC).

#### *Capacity payment mechanism*

In the field of generation capacity investments, as detailed in last year's Report, with Resolution ARG/elt 98/11<sup>79</sup> the Authority set forth criteria and conditions for the regulation of the generation capacity market (aka *capacity payment*) that aim to increase the level of coordination in the investment decisions being made by different operators (Terna and the generation companies) to reduce the coordination risk while heightening competition at the same time.

This provision calls for Terna to purchase physically guaranteed options from the generation companies (*physically backed call options*) for the amounts required by the system each year in order to protect consumers from the risks of price spikes derived from insufficient capacity. These options will be traded through auctions/bidding on a capacity market, and will feature:

- unitary energy prices commensurate with the variable costs of a new peak facility;
- payment of a price bonus determined by the capacity market and by the obligations to reimburse any positive differences between reference prices (i.e., spot market prices) and operating prices.

The tradable capacity options need to have a delivery time frame of 3 years and a planning time frame of at least 4 years to also be able to provide access to the capacity auctions for facilities that are in being planned or already under construction. Resolution ARG/elt 98/11 calls on Terna to propose a capacity payment system proposal for submission to the Ministry for Economic Development by the second half of 2012, subsequent to review by the Authority and a public consultation with interested parties/stakeholders.

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<sup>79</sup> Resolution of 21<sup>st</sup> July 2011.

Terna submitted a draft set of rules to the Authority in September 2012, and with Resolution 482/2012/R/eel<sup>80</sup> the Authority confirmed its conformity with the criteria and conditions set forth in Resolution ARG/elt 98/11. The schema was then subjected to a public consultation that began on 23<sup>rd</sup> November 2012 and ended on 15<sup>th</sup> February 2013. The Authority is about to receive Terna's schema, including any changes and additions derived from the aforementioned consultation, in order to verify its conformity with the criteria and conditions set forth in Resolution ARG/elt 98/11. It is plausible for the procedural agenda that was just described to be concluded by the second half of 2013 with the issue of the Ministry for Economic Development decree, which is a critical step in introducing the new remuneration system for electricity generation capacity.

### **Regulation of offers and calculation of the increased burden on essential electricity generation facilities in case of gas emergencies**

In February 2012, following the initiation of the gas emergency procedure and in light of the Ministry for Economic Development guideline that was issued regarding reductions of gas consumption in the thermoelectric sector as a means for guaranteeing the security of supply to families and businesses, the Authority urgently adopted Resolution 31/2012/R/eel<sup>81</sup>, which defines the procedures for the submission of bids on the electricity market by the users of dispatching, in reference to the thermoelectric facilities subjected to the emergency measures. This same resolution also initiated proceedings to determine the criteria for calculating the compensation to be paid back for any higher fees that might be sustained for the operation of these facilities.

With Resolution 439/2012/R/eel<sup>82</sup> (adopted subsequent to the usual consultation phase) the Authority then delineated the method to be used for calculating the repayments for any higher costs sustained by the facilities in question, with a special focus on the profiles associated with the definition of recognized variable cost, which is important for evaluating the bids accepted by Terna on the ancillary services market and for the procedures for recognizing the remuneration.

Decree law no. 83/12 was subsequently approved, converted with changes from Law no. 134 of 07<sup>th</sup> August 2012. Aiming to reduce gas consumption by the thermoelectric sector during gas emergencies and to guarantee a secure electricity supply for families and businesses, this decree provides for the Ministry for Economic Development, by July 31<sup>st</sup> of each year (by September 30<sup>th</sup> 2012 for the first application) and based on elements furnished by the Committee for gas emergencies and by Terna, to identify, in a decree of its own:

- the productive power needs that can only be fuelled with fuel oil or fuels other than natural gas, in order to guarantee their availability;
- the procedures for identifying specific electricity generation facilities with nominal thermal power higher than 300 MW, to be designated for emergency uses during the next thermal year.

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<sup>80</sup> Resolution of 15<sup>th</sup> November 2012.

<sup>81</sup> Resolution of 07<sup>th</sup> February 2012.

<sup>82</sup> Resolution of 25<sup>th</sup> October 2012.

Decree law no. 83/12 also provides for the operators of the aforementioned facilities to guarantee their availability each thermal year for the period between 01<sup>st</sup> January to 31<sup>st</sup> March, and for these facilities to remain available to be called urgently into service during this time period until the gas emergency has passed.

Last of all, Decree law no. 83/12 establishes that the Authority shall define the dispatching procedures for the aforementioned facilities and the methods employed to recognize the costs sustained by them each thermal year, in terms of the general charges in the interest of the security of the natural gas system and similar to the cost repayment provisions for facilities essential to the security of the electric system.

With respect to thermal year 2012-2013, the Ministry for Economic Development decree of 23<sup>rd</sup> November 2012 sets 18 million m<sup>3</sup>/day as the containment contribution for gas consumption in the thermoelectric sector during gas emergencies, and clarifies that this translates into a net electric power demand of 4,470 MW, which can be fuelled with fuel oil and other fuels other than natural gas.

The aforementioned decree also regulates the procedures used to identify the specific electric generation facilities with over 300 MW in nominal thermal power to be designated for confronting gas emergencies. Terna applies the procedures above to define a list of units critical to the security of the gas system and for submission to the Ministry for Economic Development for approval, having heard the Authority.

In measure 584/2012/l/eel of 28<sup>th</sup> December 2012, the Authority advises the Ministry for Economic Development of its positive opinion of the list of critical units for gas system security that was submitted by Terna and incorporating the Ministry's own corrections. The list is made up entirely of production units owned by the Enel Produzione company and which can be operated by proxy within the limits established during the Integrated environmental authorization process (AIA) and that guarantee, collectively, the availability of 4,430 MW in net electric power. The Authority at the same time approved a first implementation regulation for the procedures for dispatching the electricity generated by the units that are critical to gas system security and the methods used to recognize the costs they sustained during the 01<sup>st</sup> January – 31<sup>st</sup> July 2013 period (Annex A to opinion 584/2012/l/eel)<sup>83</sup>.

The regulations approved by the Authority provide that whenever a gas emergency is declared by the Ministry for Economic Development, the units critical for gas system security, the offers by the respective users of dispatching are:

- for sale on the Day-ahead Market at a price equal to the variable payment;
- for sale on the Intra-day Market at a price equal to the variable payment;
- for sale and purchase on the Ancillary Services Market at a price equal to the variable payment.

The recognized fixed cost for each critical unit for gas system security is calculated prorated based on the number of months each unit was available over the course of the year, and is equated to the value of the fixed payment offered during the selection procedures or the fixed cost ascertained by the Authority based on the same criteria referred to in art. 65 of Resolution no. 111 of 09<sup>th</sup> June 2006, whichever is lower. The recognized variable cost for each critical unit for gas

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<sup>83</sup> In measure 5/2013/l/eel, the Authority advises the Ministry for Economic Development of its positive opinion of the modifications made by the Ministry for Economic Development to the list of units critical to gas system security and modified the regulations applied to the units critical to gas system security (Annex A to opinion 584/2012/l/eel) to assimilate the clarifications issued by the Ministry for Economic Development.

system security is equal to the value of the variable payment offered during the selection procedures or the variable cost ascertained by the Authority based on the same criteria referred to in art. 65 of Resolution no. 111/06, whichever is lower.

Notwithstanding the current regulations on effective imbalance payments in the electricity market and for each relevant electricity market period that falls within a gas emergency period, the users of dispatching for a critical unit for gas system security are required to pay Terna a penalty that is no higher than the recognized fixed cost and equal to the product of:

- the gas imbalance price expressed in EUR/MWh and divided by the revenue of a combined cycle turbogas thermoelectric unit, assumed to be 53%;
- the power that was unavailable, measured as any positive difference between the contracted power and the maximum power that can be supplied, as this results in the Registry of dynamic production units.

### **3.3.3 Measures for covering peaks in demand and shortfalls in supply**

The measures for confronting peaks in demand and shortfalls in supply for one or more suppliers do not fall under the competence of the Authority: pursuant to art. 1 of Legislative Decree no. 93/11, this competence is attributed to the Ministry for Economic Development.

## 4 THE NATURAL GAS MARKET

### 4.1 Regulation of facilities and infrastructures

#### 4.1.1 Unbundling

##### Regulations on unbundling

The regulation on the unbundling of operations and accounts in the natural gas sector is identical, in essence, to the one developed for the electricity sector and explained under point 3.1.1.

##### Certification of the transmission system operator

Subsequent to the opinion formulated by the European Commission pursuant to art. 3 of regulation (EC) 715/2009, the Regulatory Authority for Electricity and Gas (with Resolutions 191/2012/E/gas of 18<sup>th</sup> May 2012, relating to preliminary certification, and 403/2012/r/gas of 04<sup>th</sup> October 2012, on final certification) concluded the certification process for the Snam Rete Gas company such as the operator for the independent gas transport system. The process was designed to verify the compliance of the largest gas transport company with the requirements of the independent transport operator model (*independent transmission operator*), within the context of a vertically-integrated undertaking, pursuant to Chapter IV of Directive 2009/73/EC and the related Legislative Decree no. 93 of 01<sup>st</sup> June 2011, for its incorporation into the Italian system.

These provisions provide, among other things, for the operator to take measures to ensure:

- the fulfillment of all of the duties and responsibilities that the cited directive provides for network management;
- the availability of all the resources necessary for network development and management. In this respect, the prohibition on stipulating service contracts with vertically-integrated undertakings and other companies controlled by them takes on a special significance; the supply contracts for goods and services, therefore, must be assigned through transparent contract competition procedures that exclude the vertically-integrated undertaking and other companies from its corporate group;
- the independence of the rules on *governance* and corporate organization from the vertically-integrated undertaking and its subsidiaries;
- the independence of the operator's advertising and brand name from the vertically-integrated undertaking and its subsidiaries;
- the respect by administrators, managing directors and operator personnel for precise requirements of independence;
- the capacity to prepare a requirements program containing the measures taken by the operator in order to guarantee non-discriminatory network management and a multi-year network development plan.

#### 4.1.2 Technical regulations

##### Balancing service

The economic merit balancing defined by Resolution ARG/gas 45/11<sup>84</sup> provides for a simplified system that, in accordance with the current management of physical balancing, is founded on the use of storage resources. The resources that the operator responsible for balancing supplies in the context of a dedicated market session managed by the Gestore dei mercati energetici (GME) are made up of variations (increases or decreases) in withdrawals from/input into storage deposits.

The overall storage capacity that is available through this kind of system is limited, moreover, especially in terms of the capacities for injection and supply, which under some circumstances may be insufficient or in any case insufficient to maintain the conditions of balance on the network. When such cases arise, Resolution ARG/gas 45/11 provides for the application of an imbalance payment determined administratively and designed to reflect the value of gas when the situation is in an extremely critical condition.

In this context, Resolutions 32/2012/R/gas<sup>85</sup> and 289/2012/R/gas<sup>86</sup> introduced additional measures in pursuit of more efficient management for cases when the supply of injection capacity of the storage deposits might be insufficient to meet the system's balancing needs, circumstances that typically arise in wintertime and summertime, respectively. The measures thus provide for:

- additional informational obligations for the operator responsible for balancing that are designed to advise users when critical situations or emergencies are close at hand;
- maximization of the incentives for users to maintain the balance of their own portfolios, administratively setting the imbalance price at 23 €/GJ (in the supply phase) and at 0 €/GJ (in the injection phase) for days when the total supply or injection capacity is insufficient or inadequate for the day-to-day balance of the system.
- utilization of the any supply or injection capacity that is left unused by the users and which the operator responsible for balancing can use to balance the system, recognizing the difference between the supply cost for this capacity on the platform and the imbalance payments to the users.

During 2012, the Authority also promoted measures that gradually introduce market instruments for activating additional resources that can be used for the balancing of the system.

The market-based trading of gas between operators and, when strictly necessary, between operators and the operator responsible for balancing, in fact, provides for the efficient management of potential cases in which the storage capacity available for balancing is limited or insufficient for implementing the transport programs (nominal) presented by the users. In an efficient market, tensions on the system are reflected in tensions on the prices, so that it is the market itself that activates the necessary corrective measures. From this perspective, Resolution 538/2012/R/gas<sup>87</sup> (in accordance with the guidelines advanced previously in consultation document 113/2012/R/gas<sup>88</sup>) appoints the GME to proceed with the definition of an implementation proposal for regulating a balancing platform and providing for a market session in

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<sup>84</sup> Resolution of 14<sup>th</sup> April 2011.

<sup>85</sup> Resolution of 07<sup>th</sup> February 2012.

<sup>86</sup> Resolution of 12<sup>th</sup> July 2012

<sup>87</sup> Resolution of 13<sup>th</sup> December 2012.

<sup>88</sup> Act of 30<sup>th</sup> March 2012.

which Snam Rete Gas can intervene whenever it suspects, based on the transport programs presented by users, that the storage capacity might be insufficient for balancing the system. In other words, it is designed to meet the need to locate the resources for network balancing at the most efficient price, even under circumstances when it finds itself approaching the limits of security. The operators, in fact, as long as they receive the requests far enough in advance (in general, the day before the day of the flow), are capable of offering their own availability and increasing or decreasing the gas flows at the interconnection points with foreign gas pipelines or at the input points of regasification terminals. In addition, as already suggested, the operator responsible for balancing may make offers on this market whenever it suspects, based on expected withdrawals from the network, that this might be necessary for balancing the network, i.e., for cases when it predicts that the storage resources are absent or insufficient for meeting the needs of the next gas day.

The provisions of the measure, therefore, allow the operator responsible for balancing to activate additional storage resources, on the basis of economic merits, in order to balance the system, although the storage deposits remain the primary resource at the operator's disposition. The input schedules will be changed to account for the need to guarantee sufficient resources for maintaining the balance of the system based on the consumption forecasts for the following day. This market session also represents the first concrete step in the direction envisaged by the European network code on balancing, the draft of which has not received final approval but is largely consolidated and already being shared by Europe's regulatory authorities.

In addition to final approval, nevertheless, full application of the Code will also have to await the establishment of adequate technical conditions by Snam Rete Gas and the operators of interconnected facilities that are designed to allow for intra-day modulation of the flows of gas being injected into the network.

To assure timely and orderly implementation of the European Network Code, Resolution 538/2012/R/gas launched proceedings which draw on the assessments requested from Snam Rete Gas and allow for the joint definition of its application method by all of the entities involved.

On the issue of balancing, with Resolution 181/2012/R/gas<sup>89</sup> the Authority approved modifications, beginning on 01<sup>st</sup> June 2012, to the Network Code of Snam Rete Gas that regulate the system of guarantees for covering the economic transactions of users, as provided by art. 11 of Resolution ARG/gas 45/11. This action was taken in response to an administrative dispute that led to the cancellation of the system of guarantees approved by the Authority with Resolution ARG/gas 155/11.<sup>90</sup> From 01<sup>st</sup> December 2011 through 31<sup>st</sup> May 2012, therefore, the balancing service was operating without a system of guarantees.

In this particular context, Snam Rete Gas reported to the Authority the lack of payment for significant amounts that had been billed to various debtor-users in regard to economic transactions for the balancing that took place during the aforementioned period. Other profiles associated with improper usage of Virtual exchange points (PSV) were also reported, involving the registration of sizeable transactions without any form of coverage. Therefore, with Resolution 282/2012/R/gas<sup>91</sup> the Authority launched a fact-finding investigation to examine the supply modes for the balancing service during the 01<sup>st</sup> December 2011 – 31<sup>st</sup> May 2012 period.

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<sup>89</sup> Resolution of 08<sup>th</sup> May 2012.

<sup>90</sup> Resolution of 10<sup>th</sup> November 2011.

<sup>91</sup> Resolution of 05<sup>th</sup> July 2012.



The system of guarantees, approved with Resolution 181/2012/R/gas, was subsequently strengthened with further action measures. In particular:

- with Resolution 470/2012/R/gas<sup>92</sup>, the Authority approved changes to the Network Code of Snam Rete Gas that define the level of guarantees required in consideration of the reliability of the user, as indicated by the prompt execution of payments. In specific, it envisages integral coverage for the balancing transactions foreseen for users who are irregular with their payments;
- with Resolution 15/2013/R/gas<sup>93</sup>, the Authority introduced modifications to the regulations on guarantees in the form of gas in storage and the regulations on the amount of exposure allowed for users as a function of their credit rating, which, considering the market price references (in place of the previous reference to the CCI parameter) and the income/assets of the user, which respectively strengthen the effectiveness of limiting the exposure of the system.

During 2012,<sup>94</sup> the value of the variable unit payment (CV<sup>Bl</sup>), which had been introduced in 2011 but initially set to zero, was set to 0.001 €/S(m<sup>3</sup>). This fee is designated for covering charges associated with unpaid debts in the balancing of the gas system. These debts are due to the operator responsible for balancing, who ascertains the liabilities of the various subjects responsible and then attributes the related charges to those responsible.

### Settlement and load profiling

With Resolution 229/2012/R/gas<sup>95</sup>, the Authority approved the Integrated text of provisions on the regulation of physical consignments and economic transactions in the natural gas balancing service (TISG), which contains the new provisions on *settlement*, upon the conclusion of the actions that introduce a balancing service founded on market mechanisms.

The TISG replaces the previous regulations on the allocation of withdrawals at redelivery points on the transport network and defines new criteria for the regulation of physical consignments and economic transactions, with the point being to resolve the gaps and problematic issues of the previous regulations.

The TISG regulates the following main aspects:

- the identification criteria for redelivery points subject to conventional withdrawal profiling;
- the conventional methods for withdrawal profiling (aka *load profiling*);
- the execution modes for the “balancing session”;
- the execution modes for the “adjustment session”;
- the responsibilities and informational obligations of the operator responsible for balancing (RdB), the transport operators, the users of balancing (UdB), the distribution companies and the users of distribution (UdD) that serve for *settlement* of the balancing service.

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<sup>92</sup> Resolution of 08<sup>th</sup> November 2012.

<sup>93</sup> Resolution of 24<sup>th</sup> January 2013.

<sup>94</sup> Resolution 351/2012/R/gas of 03<sup>rd</sup> August 2012.

<sup>95</sup> Resolution of 31<sup>st</sup> May 2012.

Regarding the execution modes for the balancing and adjustment sessions, multiple adjustment sessions were introduced for the physical consignments and economic transactions at redelivery points on the transport network, i.e.:

- a monthly balancing session in which the RdB determines the daily physical consignments of gas withdrawn from the transport system by each UdB, with reference to each gas day of the preceding month and for purposes of applying the transport and balancing payments;
- an annual adjustment session, in reference to the previous calendar year for the economic application of the difference between the physical gas consignments recorded during the balancing sessions and the amounts indicated by the metering data available at the time of that particular session;
- multiple sessions of annual equalization, in reference to the second, third, fourth and fifth previous calendar years, for the economic application of the difference between the physical consignments of gas attributed recorded during previous adjustment sessions relative to these years and the amounts indicated by the metering data available at the time of those particular sessions.

Specifically in regard to the revision of the load profiling method, in other words, the measure provided for:

- the distribution companies to determine the annual withdrawal for each redelivery point once per year;
- a simplification of the standard withdrawal profiles, which are determined in a way that makes isolation of the thermal component possible;
- the introduction of a weather modulation factor to be applied to the standard withdrawal profiles, to be defined in a subsequent measure.

There was also a rationalization of the informational obligations for interested parties and a revision of the mapping system for commercial relationships by establishing, also in relation to future developments to define a direct link between users of balancing and single redelivery points, for:

- the matrix of correspondence between users of the system to be defined and updated on a monthly basis before the start of each month;
- each balancing user to be able, first and foremost, to identify users of distribution whose withdrawals can be traced back to them;
- each distribution user to be attributed direct responsibility for indicating, within the context just described in the previous line, the balancing users involved in the withdrawals of their competence;
- the operator responsible for balancing verifies that at least one commercial relationship, within the context of the system user correspondence matrix, be defined for each distribution user, and when this is not the case, to issue the appropriate notifications to the distribution companies in regard to the possible activation of final services.

The provisions entered into effect on 01<sup>st</sup> January 2013, with the goal being to enable the first balancing session to be held in February 2013, with reference to the gas withdrawn and delivered in the month of January 2013.

### Safety of the natural gas distribution service

The safety of the gas distribution service concerns the safeguarding of people and property from damages derived from explosions and fires that could be provoked by the distribution of gas. This safety depends on: adequate odorization of the gas through the use of odorizing agents, which make it easier to detect the presence of gas in the air for the purpose of rapid identification of possible gas leaks; a rapid action service that guarantees fast response times to calls, so as to ensure timely safety recovery at the facilities; the elimination of gas leaks through inspections of the distribution network; the cathodic protection of steel-based networks.

In the gas distribution service safety field, the *Consolidated text of regulations on the quality and tariffs of gas distribution and metering services for regulatory period 2009-2012* (TUDG) is currently in effect, Part I of which is dedicated to *Regulation of the quality of distribution and metering* (RQDG)<sup>96</sup>. In the RQDG, the Authority orders a transition to be made, during this regulatory period, from the previous system of incentives for the recovery of safety based on the voluntary compliance of larger-sized companies only to the compulsory application of a system of rewards/penalties for all natural gas distributors. The system rewards the virtuous behavior of distributors who provide services characterized by higher levels of safety than the minimum levels specified in the dedicated measures. The system of incentives provides separate rewards for reductions in the gas leaks reported by third parties and higher numbers of controls of the degree of gas odorization than to the obligatory annual minimum defined in the RQDG. This system of rewards/penalties is mandatory for all gas distribution companies, and in specific:

- since 2010, for companies with more than 50,000 end users;
- since 2011, for companies with between 10,000 and 50,000 end users;
- since 2012, for companies with fewer than 10,000 end users.

During 2012, two RQDG implementation resolutions were issued to determine the annual improvement goals for the indicator on the number of conventional leaks found in response to third-party reports; the goals were differentiated based on the number of end users served by the distribution companies. These last resolutions concluded the Authority's determination of the annual improvement goals for all gas distribution companies for the 2009-2012 period.

In 2012<sup>97</sup> rewards and penalties were calculated for many companies for year 2010, resulting in the awarding of 8.31 M€ in rewards, in relation to the odorization component, and 16.05 M€ for the leakage component; a total of 3.77 M€ penalties were applied in relation to the latter component.

As in past years, in 2012 the Authority once again carried out controls and inspection checks on individual companies in order to ascertain control over the RQDG implementation, especially in regard to the safety of the gas distribution service and thus the public protection of people and property from explosions and fires provoked by gas distribution. More specifically, the program approved in 2012 includes:

- 50 telephonic controls and possible inspection checks to verify the proper functioning of the rapid response service for safeguarding people and property;
- 3 inspection checks regarding safety recoveries in 2011;

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<sup>96</sup> Resolution ARG/gas 120/08 of 07<sup>th</sup> August 2008.

<sup>97</sup> With Resolution 368/2012/R/gas of 20<sup>th</sup> September 2012 and with Resolution 533/2012/R/gas of 13<sup>th</sup> December 2012.

- 60 technical checks related to gas quality for an equal number of distributors, in order to ascertain compliance with the provisions on gross calorific value, supply pressures and odorization levels of the distributed gas (the latter for the period of 01<sup>st</sup> October 2012 – 30<sup>th</sup> September 2013).

Any violations of the regulations on rapid response in the gas sector can result in the distributor in question losing entitlement to any safety incentives for the year of reference, just as any ascertainment of non-compliance with the current norms on distributed gas odorization entails criminal consequences in addition to the cancellation of any bonuses derived from the safety recovery mechanism for the distributor company in question.

### Service quality of natural gas transport

The period of effect for the *Consolidated text on the regulation of quality and tariffs for gas transport and dispatching services for regulatory period 2010-2013*, as referred to in the *Regulations on the quality of gas transport services for the 2010-2013 period*, approved by the Authority with Resolution ARG/gas 141/09<sup>98</sup>, constitutes Part I and will expire on 31<sup>st</sup> December 2013. With Resolution 45/2013/R/gas<sup>99</sup>, the Authority thus initiated the proceedings to formulate measures on the tariffs and quality of the gas transport service for regulatory period 2014-2017 and, more specifically, resolved to:

- introduce higher selectivity principles than the third regulatory period in terms of the incentivization of new investing;
- provide regulatory mechanisms that encourage the operators to increase their efficiency in comparison to the third regulatory period and to guarantee the use of innovative technologies in the realization of new investments;
- initiate the development of incentive tools designed to improve the services being supplied, based on surveys and output measurement;
- simplify the regulations on the commercial quality of gas transport services.

A closer look at the data on the safety and continuity of the gas transport service reveals a steady yet moderate increase in the percentage of network inspected using the “pig” (the device passed through the inside of the pipelines to verify their integrity) relative to the total network being monitored/supervised from 2010 to 2012, rising from 4.2% in 2010 to 7.6% in 2012.

From 2010 to 2012, furthermore:

- high levels were achieved in terms of the actual percentage of the network made of steel with cathodic protection, which registered an increase of about 2% in 2011 as compared to 2010;
- the number of service emergencies was highly contained, and their causes were traced to natural events and third parties.

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<sup>98</sup> Resolution of 01<sup>st</sup> October 2009.

<sup>99</sup> Resolution of 07<sup>th</sup> February 2013.

Regarding the continuity of the natural gas transport service, the figures for service interruptions and instances of non-compliance with the minimum contractual pressure value at redelivery points reveal that, from 2010 to 2012:

- the annual number of interruptions with adequate advance notice experienced a steady increase (201 in 2010, 352 in 2011, 677 in 2012), as did the number of users of the transport service involved (around 4,400 to 5,000) and the average duration of each interruption (from 11.7 to 17.9 hours);
- the annual number of interruptions with adequate advance notice remained virtually unchanged at around 20, except for the sizeable drop registered in 2011 (7 in that year);
- the total number of redelivery points (PdR) that experienced one or more interruptions that were not due to service emergencies exhibited a steady decline for the year (884 in 2010, 717 in 2012);
- the cases of non-compliance with the mandatory minimum contractual pressure were small in number (three in 2010, only one in the two subsequent years) and due mainly to causes that cannot be attributed to the transport company.

#### Quality of gas distribution and metering services

The Authority carries out a comprehensive revision of the regulations on service quality every four years. Since the current regulatory period ends with 2012, with Resolution ARG/gas 64/11<sup>100</sup>, the Authority initiated proceedings to formulate measures on the quality of gas distribution and metering services for the 2013-2016 regulatory period.

In implementation of these proceedings, the Authority issued consultation document 341/2012/R/gas of 02<sup>nd</sup> August 2012, on Regulatory criteria for the tariffs and service quality of gas distribution and metering for the fourth regulatory period; this document addresses the issues raised by the possibility that the period of effect for the RQDG provisions and the 2009-2012 tariff regulations could be extended into year 2013, as well as the lines of action for revising the regulations on tariffs and service quality for gas distribution and metering for the fourth regulatory period.

With Resolution 436/2012/R/gas<sup>101</sup>, therefore, the period of application for the regulations on the quality and tariffs of gas distribution and metering services for the 2009-2012 regulatory period was extended to 31<sup>st</sup> December 2013, providing for what was expressed in the consultation document 341/2012/R/gas. With respect to the safety of distribution services in particular, the risk containment provisions for businesses for the two-year 2012-2013 period were modified through:

- a two-thirds reduction instead of the cancellation of any rewards/bonuses due to accidents caused by the gas that the distribution company is responsible for;
- the deferment of half of any penalties for 2012 until 2013, with the possibility of their cancellation if the goal is achieved in 2013.

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<sup>100</sup> Resolution of 19<sup>th</sup> May 2011.

<sup>101</sup> Resolution of 25<sup>th</sup> October 2012.

Consultation document 501/2012/R/gas was issued on 29<sup>th</sup> November 2012 to address the *Regulation of gas distribution service quality for the fourth regulatory period*, and develops some initial guidelines in the field of the safety, continuity and commercial quality of gas distribution services while maintaining the lines of action illustrated in the previous consultation document 341/2012/R/gas.

The goals that the Authority intends to pursue in the field of the safety and continuity of the gas distribution service during the fourth regulatory period are designed to:

- promote improvements in safety;
- guarantee the stability and sustainability of regulatory actions;
- prevent deterioration in the safety levels that have already been achieved in certain parts of the country;
- contain the risk factors for the distribution companies;
- increase the protection levels for end users through the enhancement of controls;
- simplify the regulations.

Special attention was dedicated to:

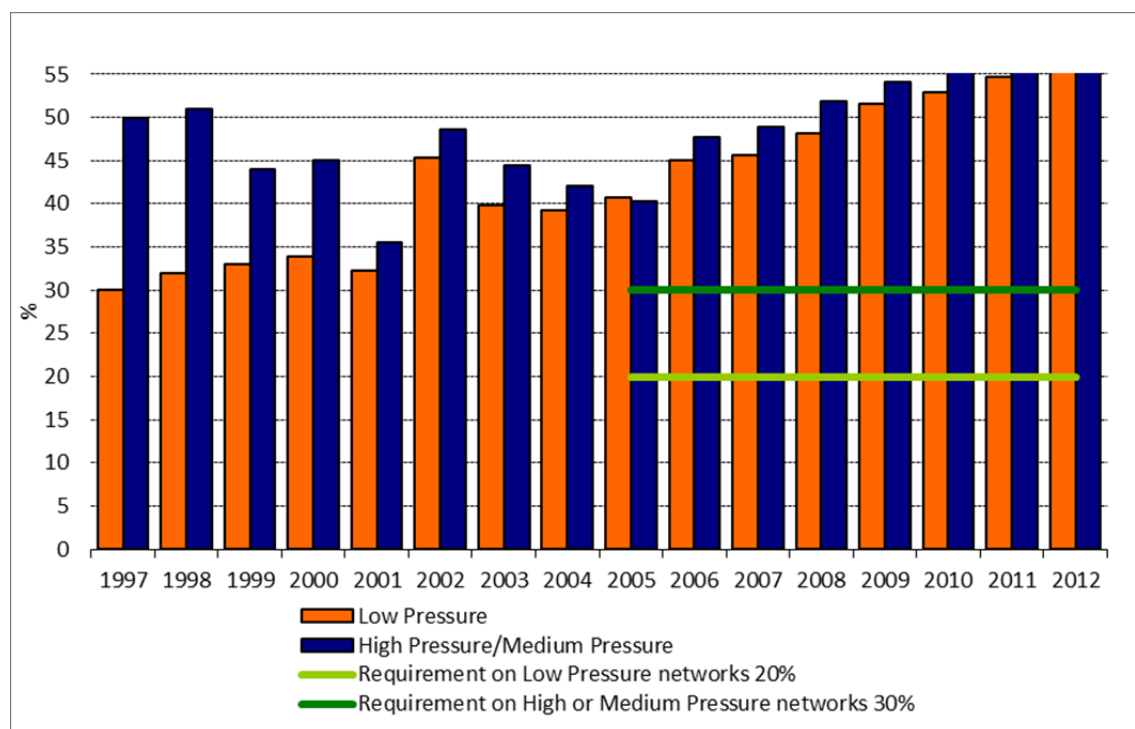
- the substantial confirmation of the regulatory set up for the safety recovery incentive mechanism;
- the implementation of the incentive mechanism for reducing the number of leaks reported by third parties in relation to the distribution service assignment process, as provided by Ministry for Economic Development decree no. 226 of 12<sup>th</sup> November 2011;
- the introduction of mechanisms for recognizing extra remuneration for certain investments based on formulas tied to the outcomes of safety recoveries (output-based logic), and no longer through ex ante increases in the *Weighted Average Cost of Capital (WACC)* (input-based logic).

As for the commercial quality of gas distribution and metering services, the specific goals that the Authority intends to pursue during the fourth regulatory period are designed to:

- align the regulations with those of the electricity sector, specifically by confirming that the rapid estimate (typically by telephone) can be applied in the gas sector, too;
- increase the level of protection for end users by gradually transforming the general standards into specific standards (providing, therefore, for the disbursement of automatic compensation in cases of non-compliance with the standards), revise some of the standards on based on the actual levels detected in recent years and an updating of the size of the automatic compensations;
- simplify the regulations, with specific reference to the standards for verifying the metering units.

Figure 4.1 presents the figures for network inspections. There was also a growth trend in terms of the numbers inspected in 2012. When the minimum levels provided by current regulations (30% for medium and high pressure and 20% for low pressure) are taken into account, in fact, the figures for low pressure network inspections and medium and high pressure network inspections in the gas sector fall in the 55 to 60% range. The goal of network inspections, generally speaking, is to intercept any network leakage so as to cultivate, de facto, higher safety levels for all citizens and end users in the gas sector.

Figure 4.1 Percentage of the network inspected in 1997-2012



Source: Distribution company declarations to the Authority.

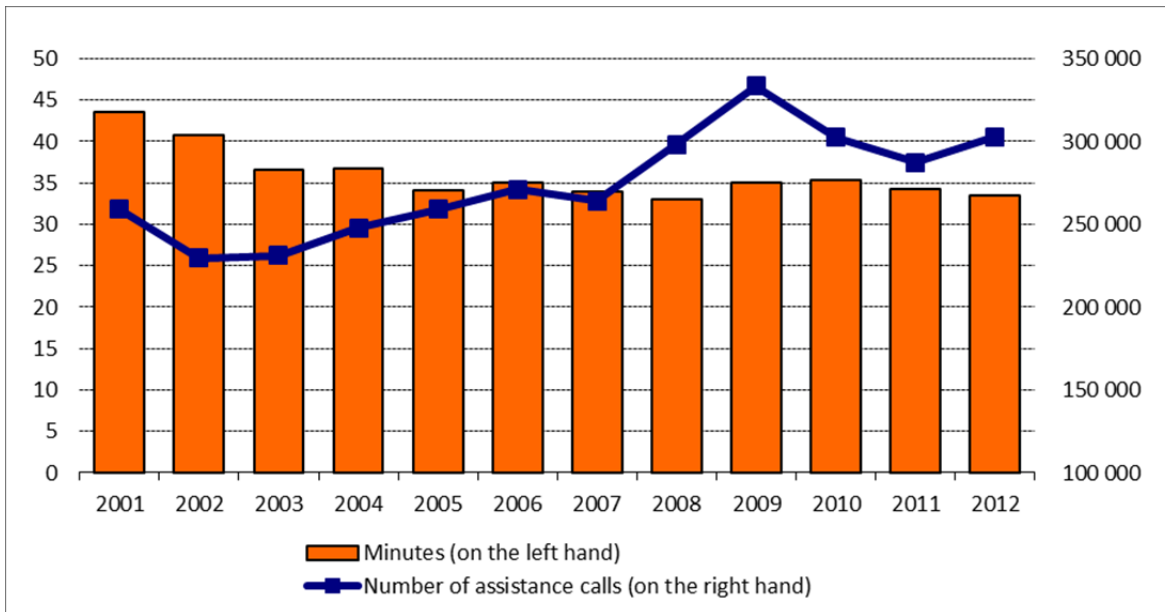
In regard to rapid response activities, graph 4.2 reveals that in response to a higher number of calls from the distribution system, the average response time clocked at the call site was less than 35 minutes on a nationwide basis in 2012, a value that is nearly half of the maximum time limit from the RQDG, i.e., 60 minutes, and continues its steady decrease in comparison to previous years. There was an increase in the number of rapid response calls as compared to 2011. The mandatory recording of the calls, as introduced by the RQDG as of 01<sup>st</sup> July 2009, along with the regular inspections of the companies' rapid response services for gas and enforced with the help of the Guardia di Finanza (Italian Tax Police), encourages companies to keep more and more accurate records of their data. It should be added that the group of companies required to participate in safety recoveries is gradually growing and compliance with the rapid response regulations is an essential requirement in the recognition of safety recoveries for the entire provincial context to which the distribution facility belongs.

Despite some signs of improvement, the Authority remains highly vigilant on the issue of rapid response. The rapid response service for gas, in fact, represents an essential service for the safety of citizens and end users in the gas sector. When carried out in a timely manner in compliance with the provisions established by the Authority on this area in the RQDG, this is the only way to prevent gas accidents that could have very serious consequences.

Current regulations are pushing the system towards higher and higher safety levels in the gas distribution service. This trend, to be more precise, is attributable to the combined effect of the Authority's monitoring activities and the system of rewards/penalties, which aims at reducing the number of gas leaks on the networks that are reported by third parties. The most dangerous leaks (A1 category) that are localized in response to reports by third parties, declined by another 7% following the 4% decline already registered from 2010 to 2011.

**Figure 4.2 Rapid response calls on the distribution system, 2001-2012**

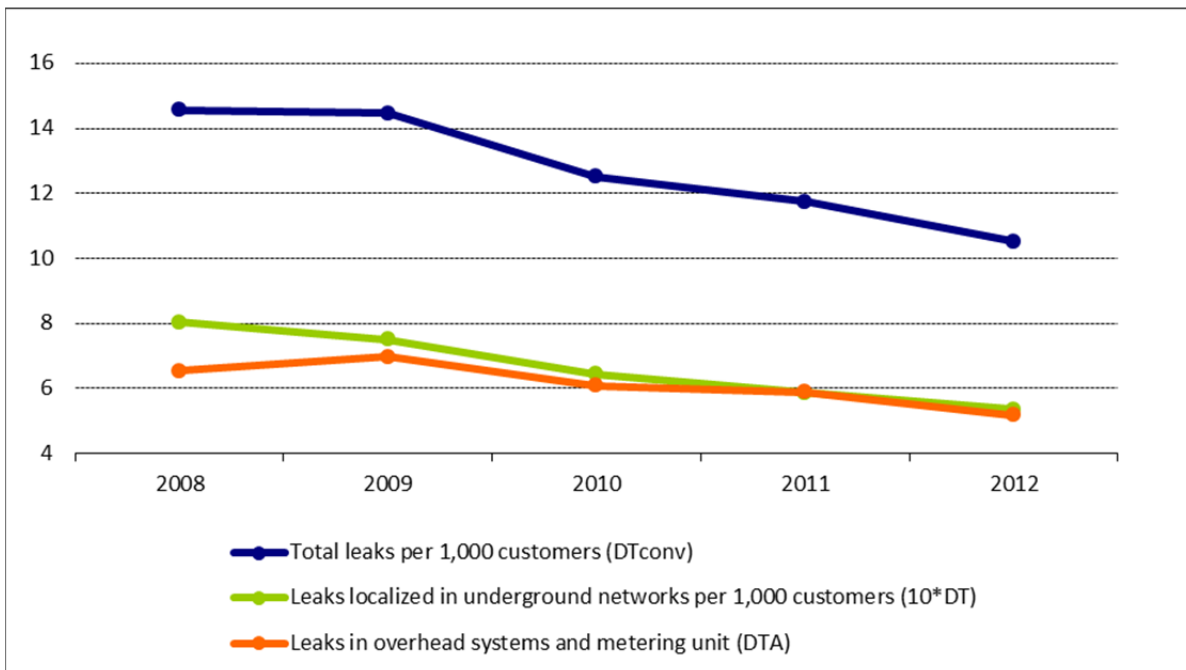
Arrival time (in minutes) to the call site and number of calls



Source: Distribution company declarations to the Authority.

**Figure 4.3 Number of leaks localized in response to third party reports, per 1,000 customers**

Provincial contexts subject to incentive-based regulations - 2008-2012 period



Source: Distribution company declarations to the Authority.

Figure 4.3 presents the number of leaks that were localized in response to third-party reports (per one thousand customers) for the provincial contexts subject to incentive-based regulations: a significant downward trend can be seen that is almost constant for leaks localized in underground networks (10\*DT), with a slight rise in 2009 for leaks in overhead systems (DTA); in 2012, both



10\*DT and DTA parameters registered roughly 5 leaks per one thousand end users, marking a further decrease relative to 2011, among other things.

### Regulation of the commercial quality of distribution services

The regulation of commercial quality includes a maximum time limit within which a set of commercial services must be provided and the automatic compensation to be paid to the end user by the company if it fails to meet the time limit defined by the Authority. The compensation is payable for causes attributable to the distribution company and for every single service it fails to supply within the maximum time limit. Generally speaking, the specific commercial quality levels are set on the basis of a user-type criterion considering the calibration of metering units, as are the automatic compensations that are to be paid in cases of non compliance. The regulations on automatic compensations provide for an increase in the base amount according to the delay in the execution of the service, except for time windows, for which no *escalation* is indicated.

In comparison to 2011, 2012 witnessed a decrease in the number of cases of failure to comply with the standards subject to reimbursement (-26%) and the reimbursements actually paid (-19%). In regard to the 18,800 cases of non compliance with specified standards, 19,409 automatic compensations were paid to end users for total payments amounting to 983,443 euros.

Out of all the various service performances subject to automatic compensation, a net decrease can be observed in the percentage of non compliance with the performance of providing the supplier with an inspection report for the metering unit (1.87%), as compared to the figure for 2011 (5.78%). Service performance concerning the time window for personalized appointments (the most numerous) registers a non compliance rate of 0.28%. The less numerous inspections of supply pressure registers a non compliance rate of 0.72%. Estimates for complicated works registered a slight increase in the percentage of non compliance. As a whole, the figures suggest a tendential decrease in off-standards, in comparison to 2011, in the face of an increase in the total number of services provided (equal to 3,518,234).

In terms of end users being supplied at low pressure with metering units up to and including class G6, which is the most common type of user, the average effective time registered clearly falls below the Authority's standard for all of the service performances subject to automatic compensation. When we factor out the estimates for complicated works, the execution of simple works and the reactivation of supply due to potential risks to public safety, we see that the average time performances for the remaining services are about half the magnitude of the predefined standards. Estimates for complicated works are provided in less than a quarter of the allotted time limit (9.5 work days, compared to a 40 day limit), while estimates for simple works are provide in a third of the time limit allotted by the RQDG (5.3 compared, to a 15 day limit). The reactivation of a supply after the potential threats to public safety, last of all, is provided in less than one work day as opposed to the two days permitted by regulation.

A comparison between 2011 and 2012 reveals a generalized decrease in the average amounts of time required. Most of the services, in fact, are provided in much less time than the standards established by the Authority. The figures are consistent with the generalized decrease in the percentage of non compliance. A slight increase is registered in the deactivation of supply and the reactivation of supply in cases of detachment due to default/delinquency. Faced with an increase in the number of requests, the time registered for the deactivation of supply rose from 2.7 work days in 2011 to 2.74 in 2012. Reactivation in case of detachment due to default/delinquency exhibits an increase in the value for the average effective time required (from 1 work day in 2011

to 1.18 days in 2012). The number of compensations paid out in 2012 was down in comparison to 2011 (by about 5,000 units).

### Connection times for transport and distribution networks

The figures on connection times are differentiated into the connection of gas lines to the transport networks and the connection of pipelines to the distribution network. For each type of facility, figures are provided for the number of connections and the average time required to obtain a connection, which is the time required to set up the point as specified in the connection contract that is stipulated. The average wait (in days) is thus calculated as the average of the time estimates provided by the network company in response to connection requests for each type of facility. As seen in table 4.1, 84 connections were made with the national transport network in 2012, including 71 at high pressure and 13 at medium pressure<sup>102</sup>. The average installation time is 77 work days; the value is higher, of course, for high pressure pipelines, for which the average wait is about 95 days, while the average time required drops to around 59 days for medium pressure pipelines.

**Table 4.1 Connections to transport networks and average connection times in 2012**

Number and average time required in work days

PRESSURE	NUMBER	AVERAGE TIME <sup>(A)</sup>
High pressure	71	95.5
Medium pressure	13	59.3
<b>TOTAL</b>	<b>84</b>	<b>77</b>

(A) Excludes the time required to obtain permits.

Source: Annual survey of regulated sectors.

**Table 4.2 Connections to distribution networks and average connection times in 2012**

Number and average time required in work days

PRESSURE	NUMBER	AVERAGE TIME <sup>(A)</sup>
Low pressure	10	19.8
Medium pressure	6,165	16.3
Low pressure	231,736	7.6
<b>TOTAL</b>	<b>237,990</b>	<b>14</b>

(A) Excludes the time required to obtain any permits and any time needed for the end user to fulfill its own obligations.

Source: Annual survey of regulated sectors.

There were many more connections to the distribution network (Table 4.2), numbering 237,911 in 2012.

Nearly all of these (about 97%) are at low pressure and with shorter waiting times, of course, than for pipelines connected to the transport network - about seven work days for gas pipelines at low pressure, sixteen days at medium pressure and twenty days for high pressure pipelines.

<sup>102</sup> The pipelines typically installed for transport are of type 1, 2<sup>a</sup> or 3<sup>a</sup> with a maximum operating pressure of more than 5 bar.

### Approvals and updates of the Code of services

The regulations on the access and supply of transport, storage and regasification services for natural gas, as found in Legislative Decree no. 164 of 23<sup>rd</sup> May 2000, provide for suppliers of the above services to define their own Codes in conformity with the criteria established by the Authority, which approves the Codes after confirming their adherence to these criteria.

Some of the previously approved transport, storage and regasification Codes of services were updated, between 01<sup>st</sup> January 2012 and 31<sup>st</sup> March 2013, to incorporate new normative measures, Authority provisions and management modalities that serve to improve the provision of the service<sup>103</sup>.

### Access to the transport service

In March 2012 the Authority initiated<sup>104</sup> proceedings in order to integrate, in accordance with Community provisions and their expected progression, the modalities by which transport companies make any amount of capacity that was conferred but not utilized available on a daily basis at the international entry points. The goal being pursued in cooperation with the other Regulatory Authorities involved is to promote the joint conferment of this leftover capacity to foster greater liquidity and flexibility in the markets and to achieve a Europe-wide convergence of gas prices. This same measure also provides for the adoption of temporary and transitional measures for single entry points in order to allow for experimentation with implementation solutions. As the proceedings were launched, the Authority issued a consultation document<sup>105</sup> that lays out guidelines for the introduction of transitional provisions that are designed to allow for any capacity that becomes available - thanks to the institution of a daily interruptible transport service by Austrian operator Trans Austria Gasleitung GmbH (TAG) - out of the quantities of gas in use to be introduced into the national transport network at the Tarvisio entry point. With Resolution 108/2012/R/gas<sup>106</sup>, the Authority then introduced the aforementioned provisions on capacity management (in accordance with the guidelines expressed in the consultation document) and subsequently integrated them<sup>107</sup>.

With Resolution 536/2012/R/gas at the end of the year<sup>108</sup>, the Authority last of all defined the measures to make a daily capacity allocation service available, starting on 01<sup>st</sup> April 2013, between the Austrian exchange point and the Italian gas system via Tarvisio, to be implemented through the common European platform for reservations and cross-border capacity allocation that was established by Europe's primary transmission companies and is being managed by the Prisma European Capacity Platform GmbH company (see paragraph 4.1.4). The capacity allocation procedures follow the criteria found in the specific guidelines prepared by the Authority<sup>109</sup> in agreement with E-Control, the Austrian regulator, within the proceedings that also provided for a public consultation phase.

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<sup>103</sup> Cfr. Resolutions 78/2012/R/gas of 08<sup>th</sup> March 2012; 111/2012/R/gas of 30<sup>th</sup> March 2012; 181/2012/R/gas of 08<sup>th</sup> May 2012; 230/2012/R/gas of 31<sup>st</sup> May 2012; 402/2012/R/gas of 04<sup>th</sup> October 2012; 470/2012/R/gas of 08<sup>th</sup> November 2012; 479/2012/R/gas of 15<sup>th</sup> November 2012; 539/2012/R/gas of 13<sup>th</sup> December 2012; 554/2012/R/gas of 20<sup>th</sup> December 2012; 137/2013/R/gas of 28<sup>th</sup> March 2013.

<sup>104</sup> With Resolution 80/2012/R/gas of 08<sup>th</sup> March 2012.

<sup>105</sup> Resolution 82/2012/R/gas of 08<sup>th</sup> March 2012.

<sup>106</sup> Resolution of 27<sup>th</sup> March 2012.

<sup>107</sup> With Resolutions 232/2012/R/gas of 31<sup>st</sup> May 2012, and 390/2012/R/gas of 27<sup>th</sup> September 2012.

<sup>108</sup> Resolution of 13<sup>th</sup> December 2012.

<sup>109</sup> The guidelines were approved with Resolution 83/2013/R/gas of 28<sup>th</sup> February 2013.

With the coordination of the Ministry for Economic Development and in cooperation with the Swiss administrations of competence, the Authority also began taking the measures needed to introduce these same capacity allocation procedures into daily transport at the Passo Gries entry point<sup>110</sup>. At the Gorizia interconnection point, the first contacts between national network operators were also made for the introduction of joint capacity allocation procedures

In terms of access to the transport service, lastly, the measures by which<sup>111</sup> the Authority intervened urgently, following the termination of three users' transport contracts by the operator responsible for balancing, by taking measures designed to guarantee the balancing of natural gas in relation to withdrawals at the redelivery points of the regional transport companies (see the "Balancing service" paragraph).

The interconnection points with foreign networks were not the only subjects of modifications, which addressed the conferment of transport capacity at the interconnection points with storage deposits<sup>112</sup>. Transport capacity is conferred to the storage companies (and no longer to the users), in fact, since it serves for providing the service to its own users. This structure is already in effect for regasification terminals and guarantees more efficient access to the transport networks for users of storage and regasification. In this way, as a matter of fact, users with access to these services are automatically entitled to input (or to withdraw from the network) the amounts of gas subject to these services. The measure, therefore, defines the methods for determining the transport capacity subject to conferment, the procedures for the allocation of related costs to the users, and the programming and access procedures for the amounts being injected or withdrawn at the aforementioned network points in the context of the user's balance.

### Access to the storage service

In April 2012, the Authority introduced<sup>113</sup> a revision to the regulations on the variable payment for storage and storage consumption in order to make the service more efficient to use and more responsive to costs. The new regulations offer a method for attributing the variable payments for storage and technical consumption that accounts for the fact that the user of the storage service contributes to generating the related costs whenever its position is aligned with the system flow (in flow), while it contributes to reducing it whenever it goes against the system flow (in counterflow). According to the new regulations, therefore, users who move gas in the same direction as the prevailing system flow pay the related variable payments and gas shares to cover consumption, while these same payments and shares are paid out to users who move gas in the opposite direction on the same day.

This action also made it possible to overcome problems in the efficiency of trading on the balancing platform that were associated with the former structure. The regulations in effect up until the measure in question was issued, in fact, and involving the attribution of storage charges (variable payment and consumption) to the trades made on this platform, created a charge that did not correspond to the actual operating costs and consumption of the storage company, on the

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<sup>110</sup> Resolution 537/2012/R/gas of 13<sup>th</sup> December 2013.

<sup>111</sup> Resolutions 428/2012/R/gas of 22<sup>nd</sup> October 2012, 39/2013/R/gas of 31<sup>st</sup> January 2013 and 89/2013/R/gas of 28<sup>th</sup> February 2013.

<sup>112</sup> With Resolution 297/2012/R/gas of 19<sup>th</sup> July 2012.

<sup>113</sup> With Resolution 152/2012/R/gas of 19<sup>th</sup> April 2012, as prefigured in consultation documents DCO 27/11 of 21<sup>st</sup> July 2011 and 21/2012/R/gas of 02<sup>nd</sup> February 2012.

one hand, and on the other hand, exerted a negative impact on the amounts of gas exchanged by the operators and on the efficiency of the outcomes of these exchanges.

In the new structure, the remuneration for bids accepted on the balancing platform takes the prevailing flow conditions of the storage system into account, and the result is a better representation of the gas value for balancing.

Also worth mentioning in terms of access to the storage service, the Authority expressed a favorable opinion<sup>114</sup> to the Ministry for Economic Development regarding the update to the Plan presented by Eni for developing new storage capacity, in application of the provisions of Legislative Decree no. 130 of 13<sup>th</sup> August 2010. In addition the Authority updated the parameters used to determine the minimum stock of gas in storage that users of the buffer service are required to order at the end of the supply phase each month<sup>115</sup>.

Lastly, based on the innovations in storage access introduced by the ministerial decrees of 15<sup>th</sup> February 2013, on the issue of buffer storage for LNG, the Authority defined<sup>116</sup> a storage services perimeter for year 2013-2014 (in essence, the uniform service and the peak service) and gathered<sup>117</sup> various proposals for innovative allocation methods, in accordance with market procedures, for the part of the storage capacity that up until year 2011-2012 had been conferred using a pro quota criterion. The Authority subsequently defined<sup>118</sup>, for the first time ever in Italy, the organizational methods for the auction procedures for conferring storage capacity for thermal year 2013-2014, on the basis of which the peak service is conferred with the a marginal price valuation criterion.

### Monitoring the proper application of storage access procedures

The storage of natural gas in Italy is based on fifteen existing concessions. There are ten active storage sites that were all created from depleted gas deposits. The total space for active reserves (aka *working gas*) is about 15.6 G(m<sup>3</sup>); 96% of this space is managed by Stogit, a member of the Eni group.

The storage service is regulated. The normative aspect of storage services was strongly renewed with the February 2013 issuance of two decrees by the Ministry for Economic Development (decrees of 15<sup>th</sup> February 2013) that establish a new allocation of capacity between the services that need to be offered starting with thermal year 2013-2014 and define the criteria for their conferment. In short, the ministerial decrees configure a new storage structure founded on two types of service and three modalities of conferment. The specific products made available to users on the basis of specific conditions can be:

- the provision of a supply service that may vary as a function of the month of the supply phase (peak product);
- the provision of a supply service that is constant for the entire duration of the supply phase (uniform product).

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<sup>114</sup> Resolution 12/2012/I/gas of 26<sup>th</sup> January 2012.

<sup>115</sup> Resolution 438/2012/R/gas of 25<sup>th</sup> October 2012.

<sup>116</sup> Resolution 75/2013/R/gas of 21<sup>st</sup> February 2013.

<sup>117</sup> In consultation document 76/2013/R/gas of 21<sup>st</sup> February 2013.

<sup>118</sup> Resolution 92/2013/R/gas of 05<sup>th</sup> March 2013.

The conferment methods, alternatively, come in three different types:

- the first - in proportion to requests;
- the second - specific to the capacity defined by the ministry and for the capacities financed in the context of the measure provided by Legislative Decree no. 130 of 13<sup>th</sup> August 2010;
- the third - through auction market procedures.

### Trading and exchange of natural gas

Art. 32, paragraph 2 of Legislative Decree no. 93/11 provided for the Gestore dei mercati energetici (GME) to manage the physical futures markets for natural gas, and to do this the Authority laid down the regulatory conditions to guarantee performance of these activities by the GME, including the role as central counter party for the trades concluded by operators on these markets and the possibility of acting as a user on the PSV, with related proprietorship of a PSV account and as a user of the natural gas balancing market. In this respect the Authority intervened with Resolution 525/2012/R/gas<sup>119</sup>, which defines the procedures by which the GME may access the PSV platform to register the gas market transactions that are concluded on this platform and the balancing service management modalities for any registered transactions with non-zero net balances, which can happen as the result non-fulfillments by the subjects participating in said markets.

After the illustrated provisions were issued, the GME prepared the gas market regulations, pursuant to art. 30, paragraph 1 of Law no. 99 of 23<sup>rd</sup> July 2009, and initiated the approval process by the Ministry for Economic Development, having heard the competent parliamentary committees and the Authority. In these proceedings, the Authority expressed its favorable opinion<sup>120</sup> and defined the criteria for managing the counter party risk for transactions concluded on the GME platform, in reference to the determination of the requested capacities as well as the instruments that can be activated to hedge any debts left uncovered by these guarantees.

Lastly, the Authority confirmed<sup>121</sup> the maintenance of the same payments applied to 2012 for the services provided by the GME in 2013, notwithstanding the option to update the valuation of these payments and their articulation, in coherence with a structure based on cost-reflective balancing payments and on the responsibility of the user, primarily, to keep their own inputs and withdrawals in balance.

### Supervision of safeguard measures for the gas system

Articles 4 and 8 of Legislative Decree no. 93/11 define the safeguarding measures and plans to be activated by the Ministry for Economic Development in case of a sudden crisis on the power market and in the face of threats to physical integrity or personal safety, as provided by art. 46 of Directive 2009/73/EC. Art. 43.3, lett. c) of this decree attributes the Italian regulator with supervision of the operators' application of these measures, in coherence with the provisions of art. 41.1, lett. t) of Directive 2009/73/EC.

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<sup>119</sup> Resolution of 06<sup>th</sup> December 2012.

<sup>120</sup> Resolution 4/2013/I/gas of 10<sup>th</sup> January 2013.

<sup>121</sup> Resolution 556/2012/R/gas of 20<sup>th</sup> December 2012.

Additionally, the Authority serves on the Committee for gas system monitoring and emergencies, which was established by the Ministry for Productive Activities with decree 26<sup>th</sup> September 2001 and confirmed in the subsequent Ministry for Productive Activities decree of 25<sup>th</sup> June 2004, on the *Approval of emergency procedures for failures to cover natural gas needs due to unfavorable weather events, known as the "Emergency weather procedure."* The Committee advises the ministry in the area of emergency management and operations for the natural gas system, and the Ministry and Authority representatives on this Committee are joined by the representatives of the operators of transport infrastructures of national interest, natural gas storage and regasification and the operator of the national electricity network.

With Resolution 30/2012/R/gas<sup>122</sup>, the Authority adopted transitional and urgent measures designed to allow for increased gas imports at entry points to the national network until 31<sup>st</sup> March 2012, even when they exceed the capacities conferred to the users, in order to prevent possible gas system problems in connection with adverse weather conditions reported by the Ministry for Economic Development.

In terms of safeguarding the gas system, we should also point out the actions by which the Authority (in implementation of the provisions of the Ministry for Economic Development decrees of 29<sup>th</sup> December 2011 and 23<sup>rd</sup> November 2012) updated the value of the payments, awards, penalties and incentives that can be applied to end users who intended to make a contribution, either directly or through their own sales company and on a voluntary basis, to the containment of consumption in thermal years 2011-2012 and 2012-2013<sup>123</sup>.

#### 4.1.3 Tariffs for connection and access to networks and regasification terminals

##### Transport

In Italy, the transport tariff is subdivided into three parts: I) remuneration for the transport service on the national network (the *entry-exit* type with *matrix cost allocation*) and with a 50/50 allocation of costs between the entry and exit payments, and an 85/15 split between *capacity* and *commodity*); II) remuneration for the transport service on the regional network (a single tariff applies for this type of service, aka "by postage stamp"); III) lastly, a variable tariff component tied to the volumes transported. For the portion of the remuneration tariff for service on the regional network, discounts in proportion to distance are provided for regional networks that are at least 15 km away from the national network; due to the homogeneity of this tariff on the regional network, specific equalization mechanisms are provided.

For continuous service on a less than annual basis, the tariff is subject to the remodulation of the unitary capacity payments on the national network on a monthly basis, while this same payment for the interruptible service is lowered to account for the risk of a service interruption. The methods used to calculate the payment reduction are determined by the largest transport company and approved by the Authority.

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<sup>122</sup> Resolution of 03<sup>rd</sup> February 2012.

<sup>123</sup> Resolutions 6/2012/R/gas of 19<sup>th</sup> January 2012 and 498/2012/R/gas of 27<sup>th</sup> November 2012.

After verifying the tariff proposals submitted by the transport companies<sup>124</sup>, the Authority approved<sup>125</sup> the tariff proposals and the gas transport and dispatching payments as well as the transitional payment for the gas transport metering service for year 2013.

The Authority contemporarily launched proceedings concerning the possible recognition of the costs sustained by transport companies for incorporating the measures introduced by Legislative Decree no. 93/11, on the issue of independent transport operators and to implement the economic merit balancing regulations referred to in Resolution ARG/gas 45/11, according to the criteria of pertinence, consistency and additionality of these costs.

In addition, the Authority approved<sup>126</sup> the action proposals for national gas pipeline network development formulated by Snam Rete Gas and S.G.I., to be subjected to the incentive mechanism<sup>127</sup> that speeds up the entry into effect of investments in transport capacity development and specifies the milestones for these types of actions.

### Regasification

The regasification tariff is subdivided into three payments: I) a payment associated with the actual dockings; II) a payment associated with the contractual commitment of the LNG; III) lastly, a variable payment tied to the energy associated with the volumes regasified.

The tariff applies to continuous (for users participating the load reception program) or spot based (for users accessing one discharge only on a date established after the program was defined) regasification services, with the latter case providing for a 30% discount in the payment associated with the contractual volume.

Last year marked the conclusion of the third tariff regulation period for the regasification service (01<sup>st</sup> October 2008 – 30<sup>th</sup> September 2012), as regulated by Resolution ARG/gas 92/08 of 07<sup>th</sup> July 2008. For purposes of an orderly transition from thermal years to calendar years and to ensure that regulatory decisions for the regasification service remain consistent with the development of the regulatory regime for the national gas system, the Authority extended<sup>128</sup> the validity of the current tariff criteria to cover the period of 01<sup>st</sup> October 2012 – 31<sup>st</sup> December 2013. In this context, the Authority nevertheless provided to update the remuneration rate for recognized invested capital (8.2% real pre-tax) by switching the underlying parameters - with the sole exception of Beta parameter - to the same parameters applied to the fourth regulatory period in the electric sector<sup>129</sup>, so as to ensure the congruous remuneration of recognized capital invested.

After verifying the tariff proposals presented by the regasification companies, the Authority approved<sup>130</sup> the tariff proposals for the regasification and metering activities carried out by regasification companies during the transitional period of 01<sup>st</sup> October 2012 – 31<sup>st</sup> December 2013, for the GNL Italia and Terminale GNL Adriatico companies, and the update proposal for the maritime towing and mooring services tariffs at the terminal of the Terminale GNL Adriatico company during the same transitional period.

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<sup>124</sup> Pursuant to Resolution ARG/gas 184/09 of 01<sup>st</sup> December 2009.

<sup>125</sup> Resolution 515/2012/R/gas of 06<sup>th</sup> December 2012.

<sup>126</sup> Resolution 279/2012/R/gas of 05<sup>th</sup> July 2012.

<sup>127</sup> Defined with Resolution ARG/gas 156/11 of 10<sup>th</sup> November 2011.

<sup>128</sup> Resolution 237/2012/R/gas of 07<sup>th</sup> June 2012.

<sup>129</sup> Regulated by Resolution ARG/elt 199/2011 of 29<sup>th</sup> December 2011.

<sup>130</sup> Resolution 312/2012/R/gas of 26<sup>th</sup> July 2012.



In consultation document 150/2012/R/gas of 19<sup>th</sup> April 2012, the Authority thus presented its own guidelines for the tariff regulation criteria for regasification services for the fourth regulatory period (2012-2016), utilizing the Regulatory Impact Analysis (RIA) method during these proceedings. In this consultation document, the Authority specifically proposed to:

- provide that the calendar year, instead of the thermal year, shall serve as the basis for the calculation of regasification tariffs, and align the tariff regulation period for LNG regasification with the period for natural gas transport;
- confirm its support for developing LNG regasification facilities by recognizing a remuneration rate increase for new investments, at the same time providing for the introduction of incentives designed to maximize the value of the services supplied by the company (*output-based* incentives) on the basis of the investment selectivity criterion;
- provide for an increase in the remuneration rate for recognized capital invested in order to neutralize the time lag in the recognition of new investments;
- align the provisions on revenue guarantees with the provisions provided for the gas transport and storage services;
- provide an allocation of revenues between the *capacity* and *commodity* components that reflects the cost structure for LNG regasification activities;
- evaluate the possibility of introducing payments that fixed over time in order to prevent benefits from overlapping between users in relation the period of use of the infrastructure or facility.

Lastly, the Authority provided for a precautionary<sup>131</sup> suspension of the recognition of the right to apply the guarantee factor<sup>132</sup> until the rules are defined for the fourth tariff regulation period for the regasification service and for any new LNG terminals that should enter into service during the transitional period of 01<sup>st</sup> October 2012 – 31<sup>st</sup> December 2013. This provision became necessary in order to avoid potentially adverse effects on the effectiveness of the Authority's decisions should any new LNG terminals not found on the list of strategic facilities, as referred to in art. 3 of Legislative Decree 93/11, enter into service during the transitional period. This article, in fact, provides for a decree by the President of the Council of Ministers to identify the minimum construction and expansion needs for facilities for electricity generation, regasification of liquefied natural gas, underground storage of natural gas or storage of petroleum products, in addition to the related energy transmission and transport infrastructures and international interconnections, as required meet the goals of the national energy policy. These types of facilities were declared to be of public utility, urgent and undeferrable, and thus eligible to enjoy the guarantee factor.

### Storage

The *capacity* portion of the storage tariff provides for three payments: I) a payment as remuneration for the space assigned to the user; II) a portion to cover the injection and supply

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<sup>131</sup> Resolution 451/2012/R/gas of 31<sup>st</sup> October 2012.

<sup>132</sup> In 2005 (Resolution no. 178 of 04<sup>th</sup> August 2005), the Authority found it necessary to foster the development of new terminals through a differential on capital invested and by guaranteeing the return of capital costs, even when the facility is unused, and clarified that this guarantee would cover 80% of the yields of reference attributed to the regasification capacity for a 20 year term. For this purpose in specific, the Authority provided for the introduction of a guarantee factor, with effect from the thermal year when a new LNG terminal enters into service, that would be covered by defining a special tariff component to be charged to the users of the transport service.

capacity; III) a payment to cover the strategic space. A variable portion pegged to the volumes moved (commodity portion) is added to these components. The storage tariff is also equipped with specific equalization mechanisms necessitated by the nationwide homogeneity of this tariff.

Italian law has established (with Legislative Decree no. 164/00 and reconfirmed with Law no. 239/04, and with Legislative Decree no. 93/11) that the storage service is to be accessed under regulated conditions and through the service supply procedures defined by the Authority, which is called on to define the regulated tariffs and the conditions for access and supply to the service, and to approve the storage Codes of the operators after verifying their consistency with the regulations and the criteria defined by law. The Authority's regulation of the access to storage services is contained in Resolution no. 119 of 21<sup>st</sup> June 2005 and its subsequent modifications and integrations.

The Authority is also involved in the application of Legislative Decree no. 130 of 13<sup>th</sup> August 2010, which introduces measures dedicated to the development of new storage capacity and includes transitional norms designed to enable investors to obtain benefits equivalent to the benefits they would have obtained had the new storage capacity become operational immediately, instead of waiting out the typical 5-year delay. With Resolution ARG/gas 29/11<sup>133</sup>, the Authority approved the criteria for defining the access payments for the new storage capacity created pursuant to the Legislative Decree described above and for the new transitory measures for the advance payment of returns in the storage market.

With Resolution 313/2012/R/gas<sup>134</sup>, therefore, the Authority approved:

- the business payments and the single national payments for gas storage and metering activities for year 2013, including the proposals to reduce the unitary injection and supply payments for the offer of interruptible storage capacity, as well as the increase in the peak supply payment for supply capacity conferred during the injection phase;
- the unitary access and utilization payments for capacity created pursuant to Legislative Decree no. 130/10 and the payments for access to the transitional measures referred to in Resolution ARG/gas 29/11.

In addition, the Authority introduced<sup>135</sup> a safeguarding clause that recognizes the possibility of having an increased remuneration rate applied to the capital invested (as provided for the third regulatory period) in new storage companies that started building a storage deposit during the 2011-2014 regulatory period, even if it will not enter into service until the subsequent period. The Authority also provided for the application of this clause in a selective manner so as to ensure the creation of facilities characterized by services that can make a significant contribution to the security of the national gas system, in specific reference to the availability of supply capacity.

Lastly, the Authority approved<sup>136</sup> several urgent provisions on the regulation of economic transactions related to storage services for thermal year 2013-2014, in order to sterilize the financial impact on storage companies deriving from the new regulations on storage capacity

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<sup>133</sup> Resolution of 23<sup>rd</sup> March 2011.

<sup>134</sup> Resolution of 26<sup>th</sup> July 2012.

<sup>135</sup> Resolution 381/2012/R/gas of 27<sup>th</sup> September 2012.

<sup>136</sup> Resolution 121/2013/R/gas of 28<sup>th</sup> March 2013.

conferment for thermal year 2013-2014<sup>137</sup>, regulations which provide for the introduction of auction markets for assigning a significant share of the available capacity (cfr. paragraph 4.1.2).

### Distribution

Distribution companies apply a mandatory tariff established by the Authority and differentiated into 6 national districts in order to cover the costs of distribution, metering and commercialization<sup>138</sup>. This tariff represents the maximum price that the distributors may apply to current and potential counter parties. In greater detail, the tariff is divided into elements  $\tau_1$ <sup>139</sup> linked to the number of redelivery points, and into an element  $\tau_3$  linked to volumes supplied that is differentiated by consumption level. These are supplemented with elements:

- UG<sub>1</sub>, to cover any imbalances in the equalization and adjustment system;
- GS, to cover the tariff compensations for economically-disadvantaged customers;
- RE, to cover charges against the fund for energy-saving measures and actions and the development of renewable energy resources in the natural gas sector;
- RS, for charges related to the Account for the quality of gas services.

The execution of the Council of State judgment no. 2521/2012, on the regulation of metering and distribution service tariffs for natural gas and other gases, entailed a modification to Part II of the TUDG on the *Tariff regulations for gas metering and distribution services for regulatory period 2009-2012* (RTDG)<sup>140</sup>.

In specific, various regulatory modifications<sup>141</sup> became necessary for the methods used to calculate the rate of annual reduction in unitary costs (*X-factor*), the gradual application mechanism for the new criteria for defining net capital invested and ex officio determination of the tariff, not limited to the localities where distribution companies have incomplete documentation but extended to the other localities served by the operator. In compliance with the aforementioned judgment, the Authority also provided:

- for ex officio tariff calculation based on the data provided by the companies;
- for the re-calculation of the reference tariffs and tariff options for years 2009 and 2010;
- for the setting of tariff reference values and re-calculation of the tariff option values for years 2011 and 2012.

A consultation document<sup>142</sup> was used to formulate the possibility that the period of effect for the provisions on gas metering and distribution tariffs for the third regulatory period could be extended into 2013, including an illustration of the main lines of action for the fourth regulatory period. With Resolution 436/2012/R/gas<sup>143</sup>, therefore, the Authority extended the period of effect

<sup>137</sup> Introduced with Resolution 92/2013/R/gas.

<sup>138</sup> The districts refer to the 6 macro-zones into which the country has been divided: Northwest, Northeast, Central, Central-southeast and Central-southwest.

<sup>139</sup> For its part, consisting of  $\tau_1$ (dis), for covering the distribution costs,  $\tau_1$ (mis), for covering the charges for the metering service, and  $\tau_1$ (cot) for covering the commercialization costs.

<sup>140</sup> Annex A to Resolution ARG/gas 159/08 of 06<sup>th</sup> November 2008.

<sup>141</sup> Introduced with Resolution 315/2012/R/gas of 26<sup>th</sup> July 2012.

<sup>142</sup> Resolution 341/2012/R/gas of 02<sup>nd</sup> August 2012.

<sup>143</sup> Resolution of 25<sup>th</sup> October 2012.

of the RTDG provisions by one year, so that the period of validity for the annual infra-period regulatory update for the tariff components for years 2010-2012 were extended into the year 2013. As for the annual update rules for the components that cover the operating costs for 2013, this is another case in which the Authority decided to apply the update rule provided in the RTDG, as modified by Resolution 315/2012/R/gas. For the components that cover capital costs, both centralized and local, the Authority updated the WACC value for year 2013 based on the parameters that were employed<sup>144</sup> to determine the remuneration rate for the fourth regulatory period of the electricity sector, with the exception of the Beta parameter. This parameter presupposed the maintenance of the same level adopted for this service in the third regulatory period. According to these assumptions, the remuneration rate for capital invested (real pre-tax) would be 7.7% for the distribution service and 8.0% for the metering service.

In this same Resolution, 436/2012/R/gas, the Authority sought to simplify the regulatory mechanisms by suspending the RTDG provisions that incentivize the aggregation of distribution companies, limiting the incentive's application to transactions concluded by 30<sup>th</sup> September 2012.

With Resolution 553/2012/R/gas<sup>145</sup>, the reference tariffs and mandatory tariffs for natural gas metering and distribution services were established, as well as the tariff options for metering and distribution services for gases other than natural gas for year 2013, in coherence with the transitional provisions defined in Resolution 436/2012/R/gas.

As for the main lines of action outlined for the fourth regulatory period, an additional consultation document<sup>146</sup> released by the Authority provides a detailed analysis of the issues of relevance for defining the recognized cost. The Authority, in this same document and in the interest of regulatory risk containment, suggested the possibility of lengthening the duration of the current regulatory period from four to six years, while introducing infra-period revision mechanisms for the *X-factor* and other parameters used to calculate the WACC. The Authority then demonstrated that district-based and municipal or supra-municipal management will coexist in the fourth regulatory period, which is why it proposed to define both the operating costs recognized by company and the costs recognized by district, differentiated as a function of the clientele density inside the district.

As for the valuation of new investments, the possibility of applying a mixture of standard-consumptive criteria was examined and investments were distinguished as a function of their purpose and of drivers differentiated by fixed asset type. Regarding the fixing of the remuneration rate for invested capital, the document announced the intention to begin special proceedings to unify the methods and time frames used to calculate non sector-specific WACC parameters for all of the services regulated by the Authority, while continuing to use the criteria similar to the ones from previous regulatory periods in the meantime.

### Metering

During 2012, on the topic of metering services for natural gas distribution networks, an update and adjustment was applied to the directives for the entry into service of electronic meters/metering units (GDM) for the implementation of smart meters/remote management and the related tariff regulations.

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<sup>144</sup> With Resolution ARG/elt 199/11 of 29<sup>th</sup> December 2011.

<sup>145</sup> Resolution of 20<sup>th</sup> December 2012.

<sup>146</sup> Act 56/2013/R/gas of 14<sup>th</sup> February 2013.

In 2008, the Authority established<sup>147</sup> the obligation to bring electronic meters into service for the remote management/smart metering of all gas distribution redelivery points, planning for 80% renewal of mass market redelivery points (residential clientele, in essence) by 2016, and 100% renewal for the remaining redelivery points located in the distribution facilities, beginning in 2012. Subsequently, with Resolution 28/2012/R/gas<sup>148</sup>, which among other things concluded the tariff definition process for the electronic meters used for remote management, the Authority updated the obligations for the roll-out of electronic meters by accounting for the new elements that emerged during the consultations.

In more detail, it ordered:

- the determination of the standard costs to be recognized starting in 2012 (including the capitalization of costs for installation and start-up of the meters), to be differentiated by meter class with a decrement in standard costs planned over the years to reflect the consolidation of the industrial technological processes;
- the articulation of the recognition of operating costs that accounts for what is already admissible under current regulations and institutes an additional component for the extra costs of the periodic inspections provided by Legislative Decree no. 99/09.
- the remodulation of the time frame for the meter roll-out obligations, which are no longer articulated as mandatory steps but instead by leveraging the recognition of a standard cost that, decreasing over time and thus rewards early investing;
- the setting, in regard to the mass market, of replacement obligations scheduled for 31<sup>st</sup> December 2018, articulated as follows:
  - 60% of the redelivery points in existence as of that date;
  - 100% of the meters bearing expired meter stamps as of that date;
  - 100% of installations after 29<sup>th</sup> February 2012 that were equipped with electronic meters as of 31<sup>st</sup> December 2018.

The data gathered in July 2012 during the “Remote gas management” fact-finding study reveal that the implementation of the *roll-out* plan (or the bringing of electronic meters into service to replace traditional meters) encountered various delays, mostly for intermediate-sized metering groups and the *mass market*. As a consequence, during 2012 the Authority surveyed the state of the art for this technology and discovered that the meters and add-ons for the intermediate-sized metering units that were already on the market would be sufficient for the 2013 launching of a significant phase of meter updates. Acknowledging this discovery, with Resolution 575/2012/R/gas<sup>149</sup> the Authority defined an electronic meter roll-out program that was phased in terms of the quantities and deadlines required for each class of metering unit:

- for redelivery points with unit classes higher than G40, the 100% replacement of meters by 29<sup>th</sup> February 2012;
- for redelivery points with a G40 unit class, the 95% replacement of meters by 31<sup>st</sup> December 2013 and 100% by 31<sup>st</sup> December 2014;
- for redelivery points with metering unit classes between G16 and G25, the 25% replacement of meters by 31<sup>st</sup> December 2013, 60% by 31<sup>st</sup> December 2014 and 100% by 31<sup>st</sup> December 2015;

<sup>147</sup> Resolution ARG/gas 155/08 of 22<sup>nd</sup> October 2008.

<sup>148</sup> Resolution of 02<sup>nd</sup> February 2012.

<sup>149</sup> Resolution of 28<sup>th</sup> December 2012.

- for redelivery points with a G10 unit class, the 5% replacement of meters by 31<sup>st</sup> December 2013 and 15% by 31<sup>st</sup> December 2014, with the definition of subsequent phases being deferred to the new regulatory period.

For small-sized customers with meters of the G6 unit class or lower, Resolution 575/2012/R/gas made no modifications to the prescriptions of Resolution 28/2012/R/gas, thereby leaving the obligations substantially unchanged with the 60% roll-out of electronic meters for this type of clientele by 31<sup>st</sup> December 2018 and the replacement of any meter bearing an expired meter stamp as of 31<sup>st</sup> December 2018.

### Measures on contract competitions for concessions

In implementation of the provisions contained in Ministry for Economic Development decree no. 226/11, which sets forth the *Regulations on contract competition criteria and the evaluation of bids for assignment of the natural gas distribution service*, the Authority began<sup>150</sup> making its own adjustments to the contract competition criteria and the evaluation of tenders for adjudication of the natural gas distribution service.

In this context, the Authority proceeded by issuing three consultation documents<sup>151</sup> that describe the initial guidelines on the procedures for submitting information on the size of distribution networks, the criteria for defining the one-time payment to cover the competition fees and the presentation of a master form of the service contract.

Subsequent to the consultation, the Authority approved:

- the criteria used to determine the one-time payment to cover the costs sustained by the commissioning bodies<sup>152</sup> while during the management of contract competitions in the new minimum districts for the gas distribution services<sup>153</sup>. The total payment varies with the number of users served and the minimum number of Municipalities that belong to single minimum district, and is constrained by a ceiling on spending;
- the Master service contract for gas distribution activities<sup>154</sup>, subsequently approved by the Ministry for Economic Development decree of 05<sup>th</sup> February 2013;
- the computer-supported format for submitting information on the size of the natural gas distribution network, with the provision of technical worksheets for submission in paper form, setting the format for the computer support and determining the starting date for mandatory use the computer supported format<sup>155</sup>.

<sup>150</sup> Resolution 77/2012/R/gas of 08<sup>th</sup> March 2012.

<sup>151</sup> Consultation documents 212/2012/R/gas of 24<sup>th</sup> May 2012, 257/2012/R/gas of 21<sup>st</sup> June 2012 and 382/2012/R/gas of 27<sup>th</sup> September 2012.

<sup>152</sup> A "commissioning body" is the entity that, by proxy for the local contracting entities in the district, assumes responsibility for opening, managing and adjudicating the contract competition to assign the distribution service in all of the Municipalities of the district.

Ministerial decree 226/11, in fact, established that in the interest of fostering the efficient and effective assignment of the distribution service of the district, it is indispensable for the local entities in of a district to identify an existing administration or organization to be delegated to run the contract competition procedure (commissioning body). The decree suggests that an appropriate commissioning body administration might be the province's capital Municipality, if there is one in the district; otherwise it might be a leader Municipality, the Province or some other entity, such as a proprietor company of the networks, if there is one, and that this entity should be chosen by the Municipalities of the district.

<sup>153</sup> Resolution 407/2012/R/gas of 11<sup>th</sup> October 2012.

<sup>154</sup> Resolution 514/2012/R/gas of 06<sup>th</sup> December 2012.

<sup>155</sup> Resolution 532/12/R/gas of 13<sup>th</sup> December 2012.

## Biomethane

Consistent with the provisions of article 20, paragraph 1 of Legislative Decree no. 28 of 03<sup>rd</sup> March 2011, which incorporates directive 2009/28/EC of the European Parliament and Council of 23<sup>rd</sup> April 2009 into the national framework on the subject of promoting the use of energy from renewable energy resources, the Authority issued a consultation document on the technical and economic regulation of biomethane generation facility connections to the natural gas networks<sup>156</sup>.

Within this document, the Authority presents the initial guidelines for defining the directives provided by Legislative Decree no. 28/11 and that affect both the supply of connection services and the supply of transport services on the transport and distribution networks. In specific, the Authority maintains that:

- the network operators are responsible for guaranteeing the safety and technical efficiency of network management. The framework of rules that needs to be defined for this purpose (for inclusion in the network codes), on the one hand, provides network operators with the powers needed to carry out this task and, on the other hand, guarantees transparency, traceability and protection for users of the service;
- in order to guarantee the physical safety and functionality of the gas system and the interchangeability and transportability of natural gas in the networks, the biomethane injected into the network needs to be compatible with the characteristic specifications provided for natural gas;
- the sizing of the connection payments for biomethane facilities plays an important role in sending the right price signals to encourage efficient decisions in the resource allocation plan and presumes that any incentives linked to the costs of network access and usage need to be contained in measures adopted by the competent ministries. In its present state, there do not seem to be any objective elements, in terms of the lower costs of transport and distribution networks, that would make it appropriate to revalue the biomethane inputs.

## Exclusion of overlapping transfers between businesses in the supply chain

Resolution 11/07 “Mandatory separation of administration and accounting for companies operating in the electricity and gas sectors” is intended, among other things, to prevent companies who do business in the electricity and gas sectors from making overlapping resource transfers between different businesses in the supply chain. During 2012, the Authority neither initiated nor concluded any proceedings to ascertain violations of the regulations on the mandatory separation of functionality and accounting in the natural gas sector.

### 4.1.4 International cooperation and the regulation of cross-border facilities and infrastructures

#### Access to facilities and infrastructures and congestion management

During 2012, norms on the congestion management in the international pipelines entered into effect through a special decision by the European Commission. On this subject, the Authority

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<sup>156</sup> Consultation document 160/12/R/gas of 26<sup>th</sup> April 2012.

promoted intense coordination with the regulators of the member states that border on Italy (the Austrian regulatory authority, for instance) in order to define joint approaches to the adoption of various mechanisms designed to resolve contractual congestions between the border countries noted in the cited decision.

In 2012, the **Regional Gas Initiatives** launched the first supra-regional action, consisting in the voluntary early implementation (i.e., prior to its entry into effect) of the *Network Code on Capacity Allocation Mechanisms* (CAM NC) by the network operators and the regulatory authority. This action was coordinated at the European level by the Italian Regulatory Authority within the context of the *Gas Regional Coordination Group* of ACER, of which it is the leader. It entails the development of pilot projects at regional/bilateral levels that are designed to experiment with the application of the CAM NC rules on the organization of auctions, the definition of *bundled* products and the development of information platforms for cross-border capacity allocation before the measures themselves become binding.

To cultivate the homogeneous development of various pilot projects, ACER and ENTSO-G (by mandate of the Madrid Forum of 22<sup>nd</sup> and 23<sup>rd</sup> march 2012) launched an intense collaboration that led to joint approval of the *Roadmap for the early implementation of the Capacity Allocation Mechanisms Network Code*. The *Roadmap* describes the projects under way and a series of actions to be completed by 2014 in order to ensure the timely and efficient implementation of this code. The pilot projects are the fruit of a voluntary initiative by the Regulatory authorities and national network operators and offer a very effective testing ground for identifying any regulatory or legislative modifications that might be required at the national level in order to enforce the provisions of this Network code, on the one hand, and, on the other hand, for sharing best practices and regulatory solutions for potential problems with implementation. In addition to its coordination of the activity described above, the Italian Authority also continued its leadership of the South-Southeast (SSE) gas Region in collaboration with the Polish regulator (which replaced the Austrian co-leader at the beginning of 2013). In addition to Italy and Poland, the Region also includes Austria, Cyprus, Bulgaria, Greece, the Czech Republic, Romania, Slovakia, Slovenia and Hungary.

The three-year working plan (2011-2014) of the Region includes, among other things, a section dedicated to the implementation of the CAM NC, and more specifically the development of a pilot project designed to make a service available, starting on 01<sup>st</sup> April 2013, for daily capacity allocation between Austria's Baumgarten exchange point and the Italian gas system, via Tarvisio, to be implemented on a joint platform for capacity reservation managed by Prisma European Capacity Platform GmbH.

The company envisions the participation of 19 shareholders consisting of Europe's main network operators from 7 different countries. The co-participation of Snam Rete Gas and Trans Austria Gasleitung GmbH (TAG) in the constitution of this company has meant the adoption of the same allocation and operating procedure rules as Central and Northern Europe, since September 2012 and beginning with Italy's Tarvisio interconnection point. Furthermore, Italy is already considering the idea of extending these rules to its interconnection points with Switzerland and Slovenia while still guaranteeing the same rule implementation schedule as for all the other main markets.

Another subject addressed in the SSE Regional Work Plan concerns the development of facilities and infrastructures. In this area, the regional investment plans (GRIPs) prepared by ENTSO-G for the Southern corridor and the Central-East corridor were presented and discussed during the meeting of Regional *stakeholders* held in Vienna on 31<sup>st</sup> May 2012 in order to explore the impact on the Region itself in greater detail. Still in 2012, another meeting of Regional *stakeholders* and regulators was held in Milan (04<sup>th</sup>-05<sup>th</sup> December 2012), where the priority work areas for 2012



were explored in greater depth; from this perspective, an emphasis was placed on the importance of *early implementation* of the CAM NC through the expansion of the number of projects and thus the interconnection points involved, and the promotion of gas market integration with neighbour countries of the Region through the creation of dedicated *trading areas* was identified as a priority work area.

### Relations with non-members of the European Union

As described in paragraph 3.1.4, in 2012 the Authority once again contributed to the implementation works for the Treaty instituting the Energy Community of South-East Europe (EnCT). With regard to the gas sector, the *Gas Working Group*, jointly led by the Authority and the Croatian regulatory authority, finalized the *Gas Transmission Balancing in the Energy Community* document, which was approved during the 23<sup>rd</sup> meeting of the ECRB on 27<sup>th</sup> March 2013. This document examines the differences between the balancing systems of the *Contracting parties* and the requirements set forth in the Third energy package, by the FGs of ACER and by the NCs of ENTSO-G.

### Investments in new network facilities and infrastructures and consistency with Community development plans

Legislative Decree no. 3/11, which incorporates directives 2009/72/EC and 2009/73/EC into the Italian legal order, attributes the Ministry for Economic Development and the Authority with the joint task of evaluating, each for their respective competences, the consistency between the ten-year network development plan (presented by the operator each year) and the national energy strategy, while the obligation to evaluate the consistency of the aforementioned plan with the ten-year network development plan at the Community level, which is presented every two years by ENTSO-G, is reserved for the Ministry for Economic Development upon the opinion of the Authority.

#### 4.1.5 Conformity with Community laws and regulations

In the past year, no legally-binding decisions that the Authority would be required to enforce, pursuant to article 41.1.d) of directive 73/2009/EC, were adopted by the Agency or by the Commission.

### Conformity of the duties attributed to the Authority pursuant to the gas directive

For an illustration of the main competences and powers attributed to the Authority by Legislative Decree 93/2011, see table 3.3.

## 4.2 Promotion of competition

### 4.2.1 Wholesale markets

The year 2012 was another negative year for natural gas consumption. According to preliminary data released by the Ministry for Economic Development, gross domestic consumption in the last year was 74.9 G(m<sup>3</sup>), marking a 3.9% decrease compared to the previous year. Final consumption fell to 72.9 G(m<sup>3</sup>), or 3 billion below the 2011 value, which had been the lowest point due to the year of liberalization in the sector. The decrease did not hit every sector: consumption in the residential sector, vehicular transportation and non-energy uses, in fact, either held steady or registered a healthy increase. All productive uses were down, on the other hand, including agriculture, industry and - most importantly - electricity generation. Consumption in the civil sector (residential and services) rose slightly in comparison to 2011 (+1.2%), climbing from 30.8 to 31.2 G(m<sup>3</sup>) thanks to a colder winter and hotter summer. The vehicular usage of gas rose by 4.8%, reconfirming the growth that has carried on for many years now. Non-energy uses also registered 8.6% growth, compensating for the sharp decline witnessed the previous year. The stability in the civil sector, however, was contrasted by a decline (-3.1%) in industrial consumption, which fell to 15 G(m<sup>3</sup>), and especially by the decrease in the thermoelectric sector, which fell by 11%. In 2012, in fact, the persistence of the economic crisis reduced the gas demand for electricity generation by another 3 G(m<sup>3</sup>), bringing it down to 25.1 G(m<sup>3</sup>) from the 28.2 G(m<sup>3</sup>) in 2011.

National production in 2012 is consistent with the tendency to settle in at around 8 G(m<sup>3</sup>)/year, a trend which has characterized recent years and marked the end of considerable reductions in the volumes produced, and which began in 1994, the year of the historical high of 20 G(m<sup>3</sup>), when national resources were satisfying about one third of consumption. According to provisional figures of the National Energy Balance issued by the Ministry for Economic Development, in fact, domestic gas extraction was 8,605 M(m<sup>3</sup>) in 2012, exhibiting a 2.1% increase in comparison to 2011 and covering about 12% of domestic demand.

Net gas imports into Italy continued to decline in 2012, down by another 2.6 G(m<sup>3</sup>) and dropping from 70,245 in 2011 to 67,586 M(m<sup>3</sup>), a level similar to that of 2004. According to preliminary data from the Ministry for Economic Development, in fact, gross imports in fell to 67,725 in 2012 from 70,369 M(m<sup>3</sup>) in 2011, while exports rose slightly from 124 to 139 M(m<sup>3</sup>). Based on the 1,276 M(m<sup>3</sup>) variation in storage volumes for the year – only 777 M(m<sup>3</sup>) went to storage in 2011 – and the estimated 1,975 M(m<sup>3</sup>) in system-wide consumption and losses, the value for national consumption in 2012 is estimated to be 72,940 M(m<sup>3</sup>), or four percentage points lower than in 2011. Italy's 90% dependency on foreign suppliers remained substantially unchanged in comparison to 2011. Half of the gas imported into Italy comes in from the North; 89% of its gas arrives via pipelines. The larger share of gas imports, or 35.2% for this year, comes into Italy via Tarvisio, the point that connects with the TAG Austrian pipeline that brings gas in from Russia. The Mazaro del Vallo point accounts for a slightly smaller share, at 30.5%, and connects with the TTPC and Transmed pipeline system (through Tunisia), which brings gas in from Algeria to Italy. Most of the gas coming in through the Panigaglia point is also from Algeria and is shipped as LNG, accounting for 1.7% of our imports last year. Thirteen point three per cent of foreign gas comes into Italy through Passo Gries, a point located on the Swiss border and connected with the Transit international (which pass through Switzerland) and TENP (which pass through Germany) pipelines, mostly with gas from the Netherlands, Norway and other North European producers. The Gela (9.6%) and Cavarzere (9.2%) points are of comparable importance, and they receive gas coming in

from Libya - through the Green Stream - and gas from Qatar, which enters Italy through a regasification terminal off the coast of Rovigo.

According to the (provisional) figures gathered by the Authority during its annual survey of regulated sectors, gross imports for 2012 marked a 4.4% decline, falling to 64.9 G(m<sup>3</sup>) from the 67.9 in 2011. The preliminary data released by the Ministry for Economic Development indicate a slightly smaller -3.8% decline, with imports corresponding to 67.7 and 70.4 G(m<sup>3</sup>) for 2012 and 2011, respectively. Four point six per cent of all gas imports were purchased on the European exchanges.

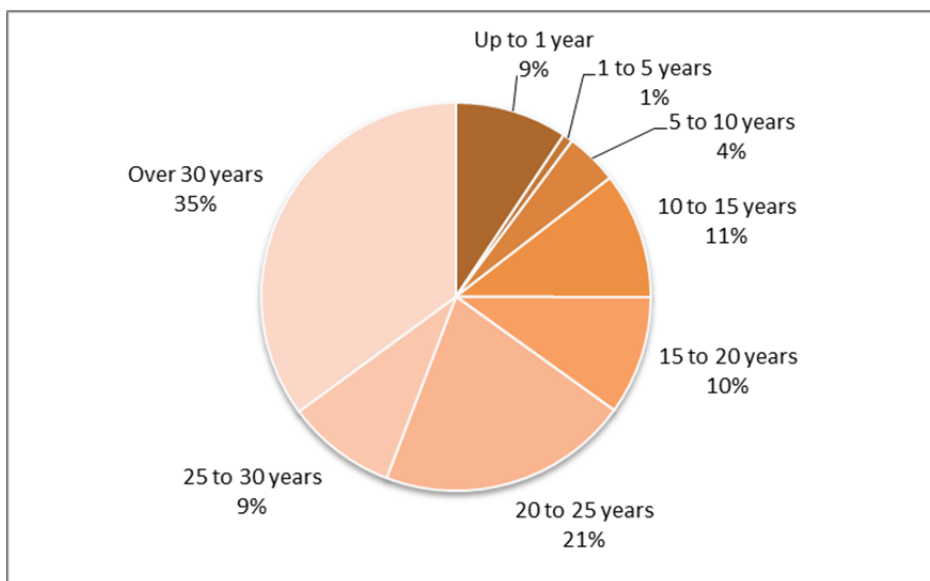
As in past years, the groups<sup>157</sup> with more than a 5% share of the total gas provided (produced or imported) are Eni, Edison and Enel, which collectively account for 78.2% of the total, up from the 74.3% registered in 2011. Other operators account hold shares of gas imports and/or production that range from 2.3% and up. These same three groups also own more than 5% of the gas available and similar shares in terms of gas provided.

Eni, with 29 G(m<sup>3</sup>) in gas imports for a 44.6% share (42.8% when calculated using the ministry's import value), has confirmed itself as the primary import entity, just as with national production. Its share, in effect, remains preponderant and is still 25 percentage points higher than its closest competitor. As in 2011, furthermore, this company's share is higher than the previous year (41.5% in 2011 and 39.2% in 2010), in contrast to what took place in previous years, which continuous decreases in this share were registered in relation to the antitrust ceilings established by Legislative Decree no. 164 of 23<sup>rd</sup> May 2000, which has ceased effect since 2011. Edison held second place once again in 2012, with its share rising to 19.2% from the 17.3% of the previous year. Enel Trade was still in third place with a 12.9% share, which is smaller than the 13.7% of the previous year. While fourth place was held by Sontrach Gas Italia in 2011, at 2%, Vitol took its place in 2012, after holding fifteenth place in 2011. The backsliding of Sonatrach Gas Italia resulted from a sharp decrease in the amounts this company imported, which fell from 1.4 G(m<sup>3</sup>) to just under half a billion. Plurigas, on the other hand, which held seventh place in 2011, was no longer ranked in the top twenty importers; Plurigas is a joint venture between A2A and Iren and shut down in March 2012. The top three importers accounted for 76.7% of all imports (73.6% of the total import value, based on the ministerial figures). As with the previous year, this share was up (72.5% in 2011).

As in past years, the analysis of active import contracts in 2012 according to their full duration (Fig 4.3) reveals how long term contracts have become more important: 65% of imports, in effect, are based on contracts that are over twenty years in total duration, and another 25% are based on contracts with a five to twenty year total duration. Recall that the incidence of these contracts is assessed in a way that excludes (through an estimate) the *Annual Contract Quantity* for spot contracts that did not generate imports into Italy, with the gas being resold directly abroad by the active operator in Italy who purchased it.

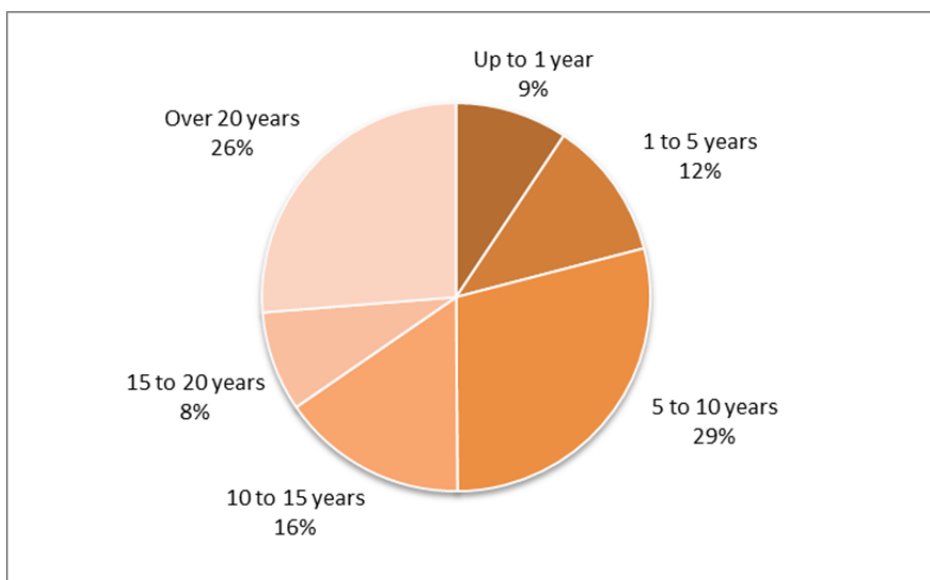
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<sup>157</sup> The survey of gas markets defines the participation of a corporate group according to the indications in art. 7 of Law no. 287 of 10<sup>th</sup> October 1990: very briefly, de facto control of a shareholder in the shares is a sufficient condition determining membership in a group.

**Figure 4.4 Structure of active contracts (annual and multi-year) in 2012, based on full duration**

Source: Annual survey of regulated sectors.

Even in terms of residual contract life, the import contracts in existence in 2012 (Fig. 4.4) are still fairly long as a whole: 34% of these do not expire for another fifteen years or more, in fact, and half of these have terms lasting ten or more years. Twenty-one percent of existing contracts, on the other hand, expire within the next five years. The incidence of contracts with residual life was also adjusted in the same manner described shortly above.

**Figure 4.5 Structure of active contracts (annual and multi-year) in 2012, based on residual duration**

Source: Annual survey of regulated sectors.

**Table 4.3 Development of the wholesale market**

Year	Demand Total <sup>(A)</sup> G(m <sup>3</sup> )	Peak demand <sup>(B)</sup> M(m <sup>3</sup> )/day	Production G(m <sup>3</sup> )	Import capacity G(m <sup>3</sup> )/year				No. of companies with production share and import capacity >5%	No. of companies with a gas available share >5%	Share held by the three largest wholesale suppliers
				Total	Priority access for transit <sup>(C)</sup>	Priority access for LT contracts	Access not reserved			
2001	125.1	n.d.	15.5	n.d.	n.d.	n.d.	n.d.	n.d.	2	68.2%
2002	111.8	n.d.	14.3	84.0	0.5	77.3	4.2	3	3	67.4%
2003	123.6	n.d.	13.9	84.8	0.5	78.8	3.1	3	3	63.8%
2004	127.3	386	12.9	88.7	0.5	84.6	2.1	3	3	62.4%
2005	138.3	421	12.0	90.6	0.5	73.5	16.7	3	3	66.7%
2006	134.3	443	11.0	92.3	0.5	74.5	17.3	3	3	66.5%
2007	136.1	429	9.7	98.4	0.5	86.1	11.8	3	3	63.8%
2008	151.5	410	9.3	100.3	0.5	96.1	3.7	3	3	57.1%
2009	147.2	436	8.0	110.9	0.3	102.6	8.0	3	4	49.2%
2010	173.5	459	8.3	116.0	0.3	103.1	12.6	3	5	42.3%
2011	178.9	401	8.4	116.3	0.2	103.0	13.0	3	3	42.1%
2012	176.1	464	8.6	116.9	0.2	102.5	14.2	3	3	39.9%

(A) Gas volumes sold on the national wholesale and retail markets; includes resales.

(B) Peak input reached on the following days: 26.01.2004, 19.12.2005, 25.01.2006, 18.12.2007, 18.02.2008, 21.12.2009, 17.12.2010, 25.01.2011; the indicated volume includes inputs, supplies from storage, leakages and consumption within the network.

(C) In Italy there is no differentiated treatment for transits that are handled as normal transport; the value indicated in the table refers to a transit contracts that obtained priority access as part of a multi-year contract.

Source: AEEG elaborations on Snam Rete Gas data and operator declarations.

The total demand in the gas sector in 2012, representing the summation of gas volumes sold on the wholesale (including resales) and retail markets plus self-consumption, was down by 1.6% at 176.1 G(m<sup>3</sup>). The wholesale market moved 101 G(m<sup>3</sup>), which is up by 3% compared to 2011, the retail market moved 62.4 G(m<sup>3</sup>) for an 8% decline relative to 2011, and self-consumption accounted for 12.6 G(m<sup>3</sup>). Three operators hold more than a 5% share of this market.

The specific groups and their respective shares (indicated in parentheses) are: Eni (21.4%), Edison (9.6%), GdF Suez (8.9%), Enel (7.6%) and A2A (6%). The top three groups collectively cover 39.9% of total demand, which is more than 2 percentage points less than last year.

The next paragraph provides a detailed description of sales and prices on the wholesale market.

#### 4.2.1.1 Price monitoring on the wholesale market

As usual, the figures for the wholesale gas market come from the first provisional elaborations on the data collected in the Authority's annual survey on the state of the electricity and gas markets in the previous year. With regard to the sector of gas sales, the survey involved 466 accredited companies from the Registry of operators who declared to have engaged in wholesale or final market gas sales in 2012. Responses were received from 402 companies in this group, with 37 declaring to have remained inactive throughout the year. Following the methodology that was

introduced last year, 57 of the 365 active companies sell gas on the wholesale market only and were classified as pure wholesalers, while 213 sold gas to end users only and were classified as pure retailers. The remaining 95, who did business in both the wholesale and final markets, were classified as mixed operators.

The wholesale market moved 101 G(m<sup>3</sup>), 32.4% of which was traded by pure wholesalers and the remaining 67.6% by retailers working both markets. The total number of wholesalers rose slightly, climbing to 152 units compared to 143 units for the previous year. In 2012, the top three companies - Eni, Edison and Enel Trade - accounted for a 27.9% share as compared to 28.2% for the previous year. When Sinergie Italiane and GdF Suez are added in, the share for the top five companies climbs to 34.2%, which is also down compared to the 38.7% for the year before.

The Herfindahl index is 0.049 when applied to the 2012 wholesale market alone (thus excluding the significant amount of gas, 12.6 G(m<sup>3</sup>), that was self-consumed by the companies), the fourth consecutive year it has remained below the 0.1 threshold considered to be indicative of low concentration.

The price applied by mixed operators was 34.62 c€/m<sup>3</sup>, which is slightly higher than the average price of 33.68 c€/m<sup>3</sup> applied by pure wholesalers. Gas was traded at a price of 34.31 c€/m<sup>3</sup> for the wholesale market as a whole.

**Table 4.4 Sales and prices on the wholesale market in 2012**

M(m<sup>3</sup>); c€/m<sup>3</sup>

Operators	Number	Sales	Price
Pure wholesalers	57	32,793	33.68
Mixed operators	95	68,319	34.62
<b>Total</b>	<b>152</b>	<b>101,112</b>	<b>34.31</b>

Source: Annual survey of regulated sectors.

The main trading platform for the Italian wholesale market is still the Virtual exchange point (PSV), which is managed by the main transport network operator - Snam Rete Gas - and which permits for trading in gas quantities and capacities based on over-the-counter contracts.

A regulated and transparent exchange for gas trading has only been around since 2010, as detailed more extensively in the following paragraphs. This platform is still marked by a low liquidity level due to various developments that are still in progress.

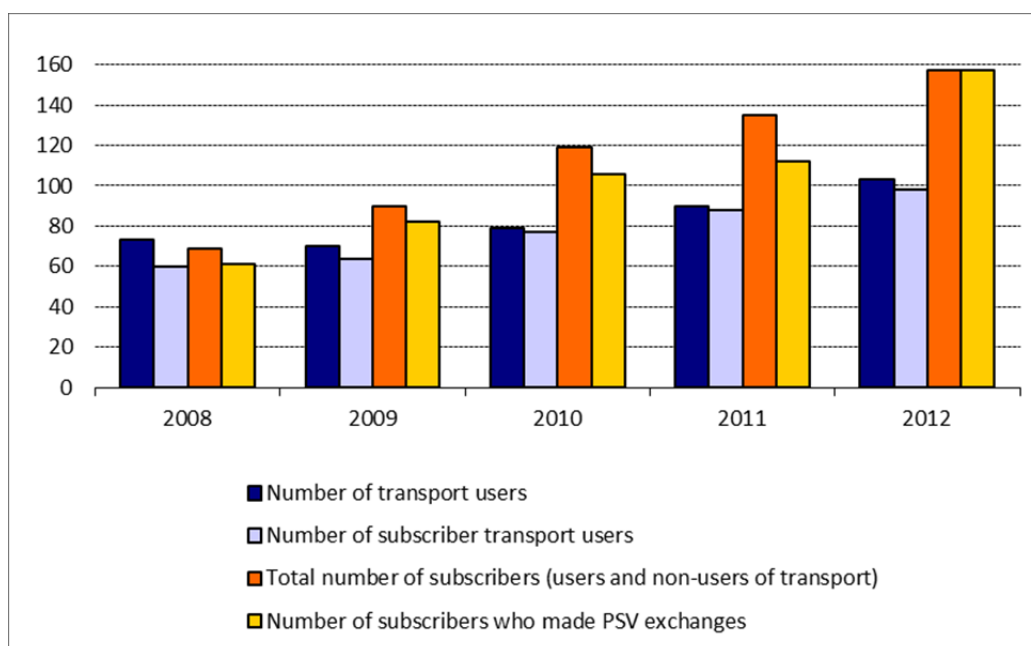
### Virtual exchange point

According to current laws and regulations, gas operators may sell or trade the gas injected into the national network at a virtual point located, in conceptual terms, between the entry point to and the exit point from the national network: the PSV. It offers a useful tool for commercial balancing and the possibility to replicate the effects of the daily capacity sales, for instance, in case of interruptions or reductions of capacity at the supply source. Transactions on the PSV are based on bilateral or over-the-counter (OTC) contracts, thereby distinguishing it from the gas exchange launched in Italy by the Gestore dei mercati energetici (GME) in May 2010.

In recent years the PSV's importance has grown considerably in terms of volumes traded and number of contracts. This growth has also benefited from the standardization of the contracts

underlying the transactions and various measures that were implemented. According to the Authority's provisions, traders have been able to carry out transactions on the national hub since November 2006 without being actual users of the transport system. There were 157 entities who made trades, sales and purchases of gas on the PSV in 2012; 59 of these were pure traders, in the sense that they were not actual users of the transport system (Fig. 4.5). The number of subscribers who executed trades on the PSV also showed an overall increase from 112 in 2011 to 157 in 2012. The number of pure traders (i.e., non-users of the transport system) registered an appreciable increase from 27 to 59 units. It is worth mentioning that 2011 was the first year in which this category of operators witnessed a decrease in numbers (there were 32 in 2010, in fact).

**Figure 4.6 PSV users from 2008 to 2012**



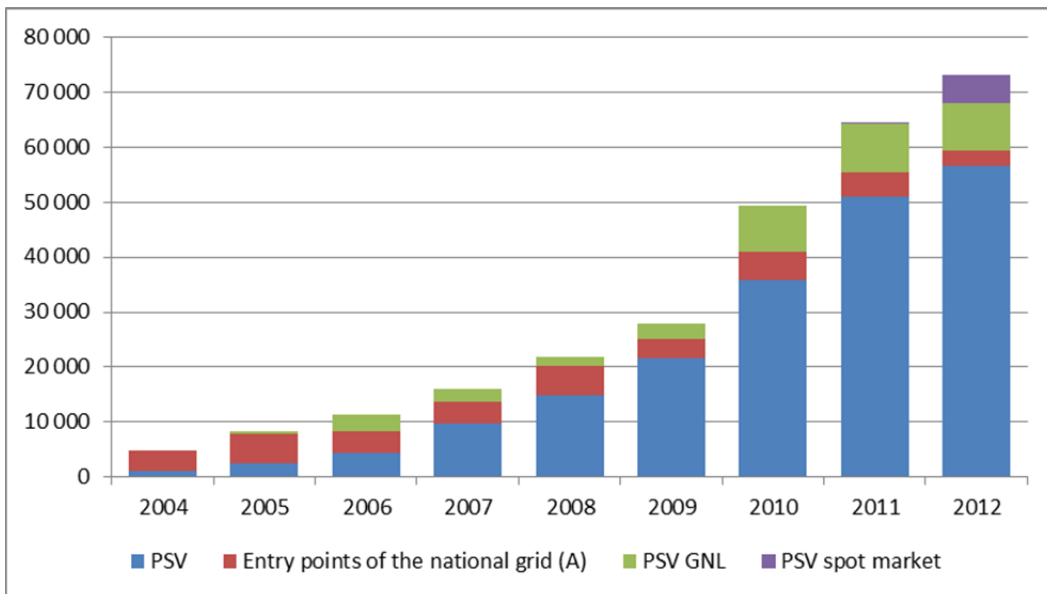
Source: Annual survey of regulated sectors.

Figure 4.6 presents the history of gas transactions at the entry points to the national gas system and the trading registered on the PSV. The graph shows a distinct clustering of imports at the *entry points*, redeliveries of liquefied gas at the PSV and the trades deriving from contracts on the spot market and the OTC at the PSV. Imports at the entry points, which are exclusively about commercial trading<sup>158</sup>, have been grouped together under a single item which includes the sales registered at Tarvisio, Passo Gries, Mazara, Gorizia, Gela and Panigaglia - the latter ones until November 2005, when they were incorporated under the item PSV LNG. The PSV LNG category, in fact, includes gas redeliveries by GNL Italia at the Panigaglia terminal and, since October 2009, redeliveries by Terminale GNL Adriatico at the Porto Viro (Rovigo) terminal, which connects to the National transport network (RTN) through the Cavarzere *entry point*.

<sup>158</sup> In terms of commercial transactions alone, the Gorizia entry point has been inactive since October 2004, Gela was active from October 2004 to November 2005 and from April 2010 to February 2011; Mazara, on the other hand, did not register any transactions from December 2005 to September 2008.

**Figure 4.7 Transaction volumes at entry points to the national network**

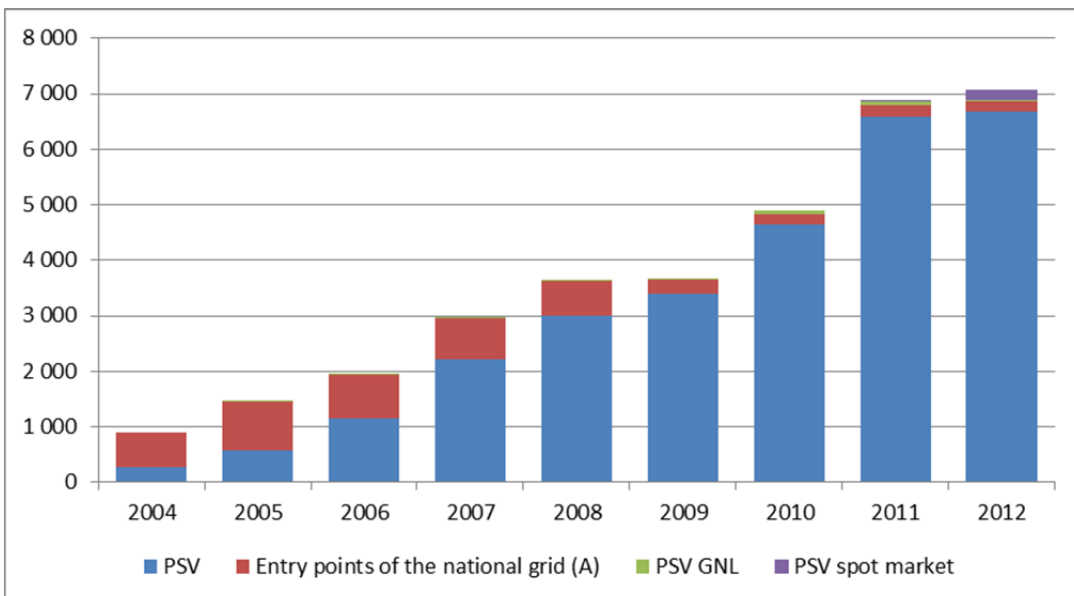
M(m<sup>3</sup>) standard of 38.1 MJ; transactions refer to gas injected into the network by the transferring user



(A) All commercial and customs transactions are included under the RTN.

Source: AEEG elaborations on Snam Rete Gas data.

**Figure 4.8 Number of transactions at entry points to the national network**



(A) All commercial and customs transactions are included under the RTN.

Source: AEEG elaborations on Snam Rete Gas data.

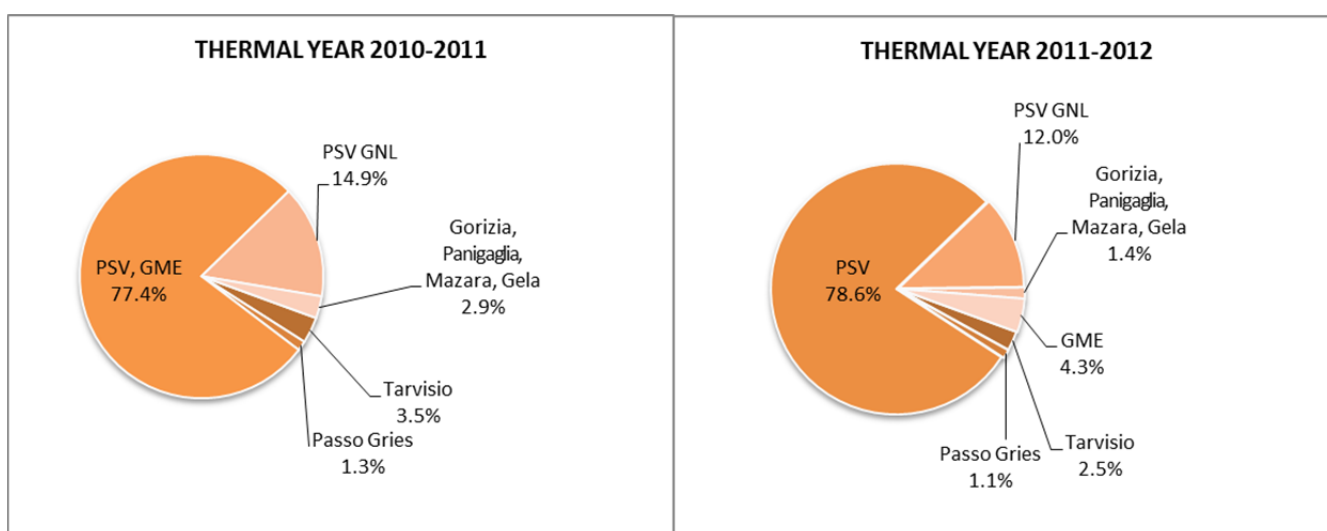
The phrase “PSV spot markets” refers to the volumes traded on the new spot market platforms being run by the Gestore dei mercati energetici (GME) and added on to the existing P-GAS and M-GAS. Resolution ARG/gas 45/11 of 14<sup>th</sup> April 2011 (and its subsequent implementations) launched the gas market balancing platform (PB-GAS) being run by the GME, and thanks to which a gradual transition is under way from a “storage-based” balancing mechanism to a mechanism - “market-based” balancing - which is more consistent with Europe-wide integration of the gas market. Thanks to the PB-GAS, the operator responsible for the balancing service and the users are able to



access the resources they need to carry out the balancing of the system. This platform has been active since December 2011, but only since 01<sup>st</sup> April 2012 have shippers been able to formulate offers to buy. An analysis of the platform's first effective year of operation confirms the encouraging results presented in the 2012 Annual Report, which offers a look at the first quarter of activity. The volume traded on the PB-GAS in 2012 was over 5 G(m<sup>3</sup>). Since the demand side was opened up to *shippers*, the average monthly trading volume witnessed a 35% increase compared to the four preceding months, when the demand side was still based exclusively on the needs of Snam Rete Gas as the operator responsible for the balancing service. The gas exchange amounted to only 30 M(m<sup>3</sup>) in 2012.

**Figure 4.9 Breakdown of volumes traded/sold at international entry points to the national network and the PSV**

Comparison of thermal years 2010-2011 and 2011-2012



Source: AEEG elaborations on Snam Rete Gas data.

A comparison of thermal years 2010-2011 and 2011-2012 (Fig. 4.8) shows how - as in past years - the PSV has developed at the expense of other National network entry points, whose shares have exhibited a steady decrease over time. The PSV registered another positive year with an increase of nearly 24%, which is still less, however, than the positive change in the previous thermal year (+42%). In contrast to the previous thermal year, the LNG PSV instead marked a 2.1% reduction that broke the positive trend that began when the Rovigo terminal entered into service. In thermal year 2010-2011, the GME item was grouped together with trading on the PSV due to their trivial weight (representing less than 1% of total volumes). This percentage rose to 4.3% for the October 2011 - September 2012 thermal year due to effect of the PB-GAS volumes. The massive growth in trading on the PSV is a measure of the potential for and importance of developing an efficient gas exchange that has the capacity to generate the right price signals. Although Passo Gries registered a 6.1% increase, its importance has declined, even if by little, in comparison to the previous period. The volumes exchanged at the Tarvisio entry point were down by 13%, and the volumes that passed through Mazara del Vallo suffered a decrease of more than 40%.

### Gas Exchange

The creation of a gas Exchange in Italy was begun in 2007 with Law Decree no. 7 of 31<sup>st</sup> January 2007, converted into Law no. 40 of 02<sup>nd</sup> April 2007, which established the duty:

- of holders of natural gas production licences to transfer the quotas of gas produced in Italy due to the State;
- of importers to offer a quota of the imported gas on the regulated capacity market.

The ways in which the quotas were to be transferred were then defined in subsequent measures issued by the Ministry for Economic Development and the Authority and adopted between 2008 and 2009. By Law no. 99 of 23<sup>rd</sup> July 2009, economic management of the gas market was exclusively entrusted to the GME, which took over management of offers for purchase and sale (and all related services) based on financial merit criteria pursuant to this law and within six months after its entry into force; however, the creation of the first nucleus of the Exchange actually took place with the enactment of Ministry for Economic Development decree of 18<sup>th</sup> March 2010, which established the trading platform for the exchange of quotas of imported gas, known as "P-GAS". In particular, this decree established that with effect from 10<sup>th</sup> May 2010, the mandatory quotas of imported natural gas to be transferred would be offered by importers exclusively within the context of the new trading platform (in the so-called "import segment"), but that additional offers of volumes of gas made by persons other than those bound by the obligations imposed by Law Decree no. 7/07 could also be admitted to the trading platform. Parties authorized to operate in the PSV are permitted to work on P-GAS. The products traded are contracts with a delivery period of one month or one thermal year. The GME simply acts as manager of the platform, and not as the central counterparty: management of guarantees, invoicing and payments is therefore carried out directly by the operators who are selling the gas. The trading of import quotas that must be assigned on P-GAS is carried out in a continuous mode. Since 10<sup>th</sup> August 2010, trading of the quotas of gas produced in Italy and owed to the State, which are traded in the quota segment of P-GAS, has been added to the trading of imported gas. In this case, too, the GME is not the central counterparty, and operates exclusively as the organizer and operator of the platform, the trading mechanism being by auction. The launch of the real spot natural gas market with the GME playing the role of central counterparty finally took place in October 2010 with the creation of M-GAS. On this market operators who have been authorized to carry out transactions at the PSV can spot buy and sell quantities of natural gas. M-GAS is divided into:

- MGP-GAS (the day-ahead gas market), in which contracting takes place with offers of purchase and sale for the next gas-day. The trading method is continuous, with a closing auction;
- MI-GAS (the intra-day gas market), in which contracting takes place relating to the gas-day itself. The trading method is continuous.

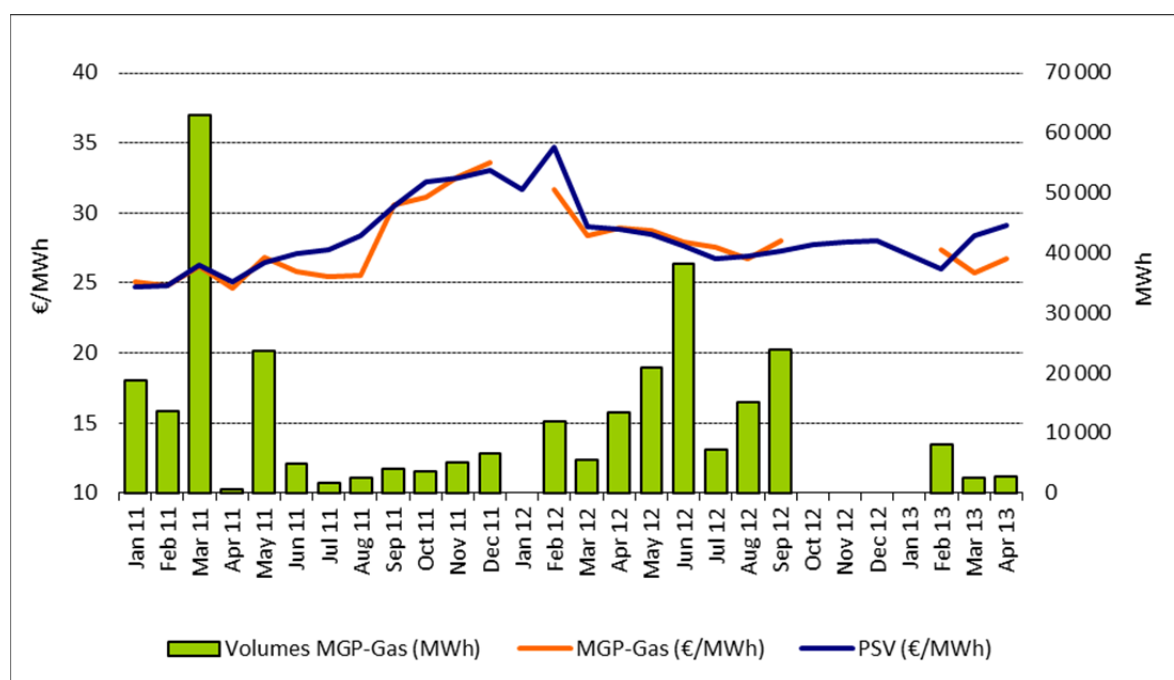
In May 2012, another segment of the P-GAS was launched known as the "Segment referred to in Legislative Decree no. 130/10", which refers to the Legislative Decree created to implement measures to make the natural gas market more competitive, in part as a result of the development of storage infrastructures. Legislative Decree no. 130/10 replaces the so-called "anti-trust ceilings", which had expired, and seeks to introduce new incentives to develop competition in the wholesale market through the development of storage capacity. In particular, the Decree

provides the opportunity for investors to ask the Energy Services Management (GSE) for permission to deliver gas during the summer and to have it redelivered in the winter, up to a maximum quantity corresponding to the quotas of new, not yet operational storage capacity assigned to them through the procedures described in Article 7 of the Decree, until the gradual entry into service of the new storage capacity and for a period not exceeding five years. In order to increase the liquidity of the wholesale natural gas market, the Decree provides for the obligation on the part of those who use the incentives described above to offer the quantities of natural gas for which they are requesting redelivery in winter for sale through the trading systems organized by GME. By Resolution 67/2012/R/gas dated 01<sup>st</sup> March 2012, the Authority approved the proposals submitted by the GME and GSE regarding how participating investors might fulfil their obligation to supply the quantities of gas made available by the matched virtual storage facility, relating to the above portions, and provided that they should be offered individually or cumulatively on the following platforms:

- platform for the supply of natural gas (P-GAS), through the creation of a special segment known as "the segment referred to in Legislative Decree no. 130/10";
- spot gas market (MGP-GAS).

**Figure 4.10. Prices for the daily contracts at the PSV and on the MGP-GAS, and volumes traded on the MGP-GAS in 2012**

€/MWh MWh



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

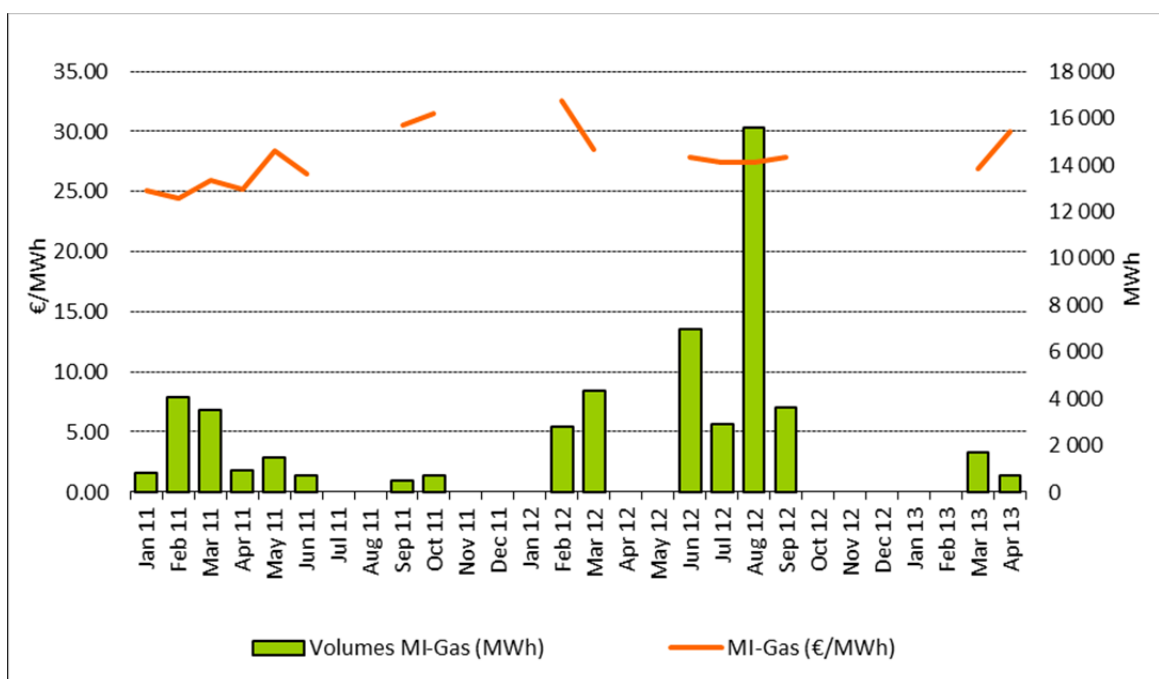
In 2012, there were 42 sessions on MGP-GAS during which there was at least one exchange in continuous mode, for a total of 135,900 traded MWh, down 8.2% compared to 2011. The average price recorded was € 28.48/MWh, which is almost 3% higher than the previous year. Figure 3.11 shows the comparison between the prices at the PSV for daily contracts and those resulting from trading on the Exchange in the period under consideration. As can be seen from the graph in Figure 3.11, the Exchange prices were broadly consistent with those at the PSV (where, it must be

pointed out, negotiations are bilateral and private, in the sense that Snam Rete Gas, which manages the PSV, does not act as the central counterparty): the average price at the PSV stood at an average of € 28.74/MWh, an increase of 2% compared with 2011. Unlike in the previous year, there was no monthly continuity in trading.

Substantially, in January, October, November and December there were no sessions that concluded with exchanges. The revival recorded in the second half of 2011 did not translate into greater vitality and continuity of trading on the Exchange. The lack of continuity in trading on the intra-day Market (MI-GAS), in which 15 sessions were completed positively, as against 18 in 2011, was also confirmed in 2012. The average price recorded was € 28.59/MWh, an increase of 5.1% compared with the previous year. The corresponding volume transacted increased to 36,120 MWh compared with 12,616 MWh in 2011.

**Figure 4.11 Prices and volumes for the contract on the daily MI-GAS**

€/MWh; MWh



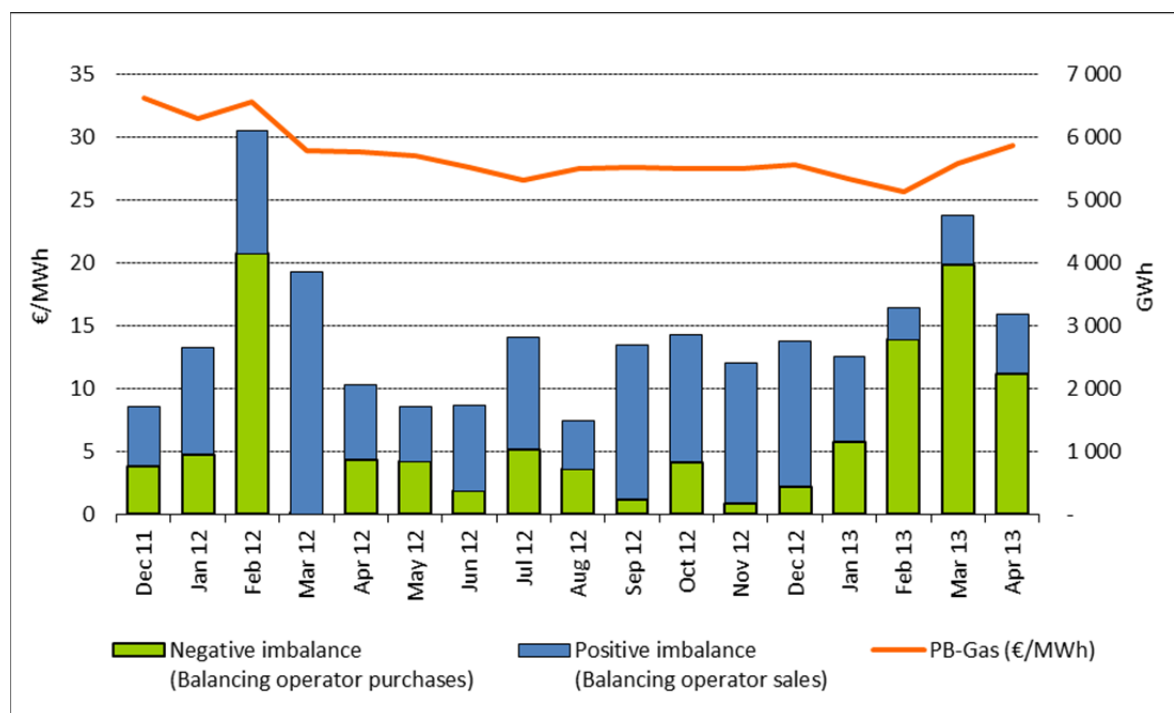
Source: AEEG elaboration of GME data.

Figure 4.11 shows the prices and volumes on the platform for gas balancing managed by the GME. It came into operation with Resolution ARG/gas 45/11, and established the transition from a system of "in storage" balancing based on a tariff system established and updated by the Authority to a "market" balancing system in which the price of the resource is determined by the intersection between supply and demand relating to stored gas. As briefly described in the previous paragraph, the mechanism that has been implemented provides for compulsory participation by all holders of storage capacity. In its initial deployment phase, the platform permitted exclusive supply of Snam Rete Gas in its capacity as Balancing Operator (RdB); it is only since April 01<sup>st</sup> that the market has been open to all users of the transmission service. On the PB-GAS, therefore, users of the transmission service can supply themselves with resources to complete their balance equation, thereby allowing them to give value to the related physical imbalance. The obligatory involvement of holders of storage capacity combined with the presence of Snam Rete Gas as RdB has allowed much more gas handling than in the other markets managed by the GME. The average price recorded on the PB-GAS in 2012 was € 28.54/MWh, which is

slightly lower than the average price of the PSV in the same period for corresponding volumes of 10,645 GWh traded in negative imbalance (purchased by the RdB) and 22,471 GWh in positive imbalance (sales by the RdB).

**Figure 4.12 Prices and volumes on the PB-GAS**

€/MWh; M



Source: AEEG elaborations of GME data

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

##### Measures for the development of competition in the wholesale market

2012 saw the continuation of the activities described in Legislative Decree no. 130/10, which introduced new measures in place of the so-called "anti-trust ceilings"<sup>159</sup> to increase competition in the natural gas market through a strengthening of the storage infrastructure for the benefit of industrial and thermoelectric entities. In particular, industrial entities that fund the construction of new storage capacity also benefited from the so-called "transitional/virtual storage measures" in 2012: that is, provisions in a virtual format that advance benefits equivalent to those that would have accrued if the funded storage capacity were already operational (Article 9 of Legislative Decree no. 130/10). This mechanism is provided to continue until the gradual entry into service of the new storage capacity, but in any event no later than 2015.

<sup>159</sup> That is, limits on input into the network and sales to final customers pursuant to Legislative Decree 164/00.

The transitional measures were issued by the Energy Services Manager (GSE) and are of a physical nature as of April 2012 (in 2010-2012 they were only of a financial nature), enabling industrial lenders to deliver gas in the summer and have it redelivered in winter against a fee determined by the Authority starting out from the storage tariffs.

By Resolution 33/2013/R/gas<sup>160</sup>, the Authority has also set the maximum fees for the physical service of virtual storage for the thermal year 2013-2014 relating to the supply obligation in the procedures for the selection of virtual storage at a minimum amount equal to 50% of the service, to be provided to the entity participating in the implementation of the measures referred to in Article 5, paragraph 1 of Legislative Decree no. 130/10 (Eni).

Based on the contracts approved by the Authority, the GSE has purchased availability for the physical service of virtual storage for 2013-2014 of approximately 25 million cubic metres, at an average weighted price of approximately 2.5 c€/m<sup>3</sup>. Although by resolutions 33/2013/R/gas and 90/2013/R/gas<sup>161</sup> the Authority revised the fees for the use of the transitional measures downwards, current market conditions have made the service unattractive (25 million cubic metres against a total requestable amount of just over 400 million cubic metres). The 25 million cubic metres of gas supplied by the GSE will be returned to the industry lenders by the virtual stocking agent next winter and will be put on sale by them on the GME platforms in accordance with the provisions of Resolution 67/2012/R/gas<sup>162</sup>, relating to methods for offering this winter gas on the GME platforms; the possibility of selling the gas on a bilateral basis is provided for once the terms for the fulfilment of the obligation to offer have been satisfied.

Based on the provisions of Resolution 54/2012/R/gas<sup>163</sup>, the GSE has also carried out the annual transfer to the market of the storage capacity for the thermal year 2013-2014. This procedure is available to those industrial lenders who have signed a multi-year contract pursuant to Article 7, paragraph 3 of Legislative Decree no. 130/10 in order to allocate the capacity that must be offered by the parties who took advantage of the transitional measures in 2012-2013 (10% of the capacity that is the subject of the transitional measures for a number of years equal to twice the number of years for which the capacity remained "virtual"). For 2013, these procedures have seen an allocation of about 58 million cubic metres out of the 380 offered, placed on sale at approximately 0.8 c€/m<sup>3</sup>.

#### 4.2.2 Retail Markets

Of the 402 companies accredited on the list of operators who responded to the annual survey, 213 sold gas to final customers only and were therefore classified as pure sellers. As mentioned in the introductory paragraph of the wholesale market section, 95 mixed operators were identified.

In the retail market, just over 62 G(m<sup>3</sup>) of gas were sold; a quarter of this quantity was sold by pure sellers, while the remaining three-quarters were sold by sellers who also operate on the wholesale market. The average price charged by pure sellers was 52.39 c€/m<sup>3</sup>, much higher than that offered by mixed operators, which was 43.19 c€/m<sup>3</sup> (Table 4.5). The difference partly reflects

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<sup>160</sup> Resolution of 31<sup>st</sup> January 2013.

<sup>161</sup> Resolution of 28<sup>th</sup> February 2013.

<sup>162</sup> Resolution of 01<sup>st</sup> March 2012.

<sup>163</sup> Resolution of 23<sup>rd</sup> February 2012.

the sum of the margins applied to trades along the chain, but mostly depends on the different types of customers served by the two kinds of operators. Mixed operators normally serve larger final customers (industrial and otherwise), which are able to obtain better prices and are often connected with the transmission network directly (and so their price does not include the cost of distribution). More frequently, however, pure sellers are turning to so-called mass market, where the customers served are numerous but small, and pay a price that includes the expense of covering distribution costs.

**Table 4.5. Sales and prices to the retail market in 2012**

M(m<sup>3</sup>); c€/m<sup>3</sup>

Operators	Number	Sales	Price
Pure sellers	213	15,846	52.39
Mixed operators	95	46,563	43.19
<b>Total</b>	<b>308</b>	<b>62,410</b>	<b>45.53</b>

Source: Annual Survey of Regulated Sectors.

In 2012, the number of operators in the final sales market decreased by 4 compared with the previous year (there had been 312 operators in 2011). The total quantities sold decreased from 68.5 to 62.4 G(m<sup>3</sup>), over 4 billion less than the levels reached in 2009, the first year in which the ongoing economic crisis began. Since total sales were reduced to a greater extent than the reduction in the number of operators, the average unitary volume of sales fell by 8.9%, from 220 to 203 M(m<sup>3</sup>).

The variation in the number of sellers is also due to the mergers and acquisitions policies that are seen among companies every year. Among the major corporate transactions concluded in 2012, the following are worthy of note:

- the expansion of Unogas Energia, which acquired Bluenergas-BEG's business of sales of natural gas to final customers in May and incorporated Unogas Freddi in June;
- the merger of Duferco Natural Gas into Duferco Energia (which engages in the purchase and wholesale sale of natural gas, as well as the sale of natural gas to final customers), which also took place in June;
- the merger in July of GdF Suez Gas Supply & Sales, a company dedicated to the purchase and wholesale sale of natural gas and sales to final customers, into GdF Suez Energia Italia;
- the transfer of Bluenergy Group's business of sales to final customers to Gas Sales;
- the sale in October of BP Italia's business of sales to final customers of natural gas and the purchase and wholesale sale of gas to BP Energy Europe Ltd's Branch Office;
- the merger of E.On Italia Power & Fuel into E.On Production in October;
- the merger of Toscana Energia Clienti into Eni in November.

In order to calculate the market share and the level of market concentration of retail sales correctly, it is not the operations of individual corporate bodies that need to be analysed, but those of corporate groups (Table 4.6). The final sale market remains concentrated: the top 3 groups control 47.7%. Nonetheless, after last year's increase, when the value climbed to 49.2%,

their share shrank once again. Concentration also remains high at the level of the top five at 60.5%, unchanged compared with 2011.

**Table 4.6 Top twenty groups by sales to the end market in 2012**

Volumes in M(m<sup>3</sup>)

GROUP	VOLUME	FEE
Eni	17,511	28.1%
Enel	6,807	10.9%
Edison	5,472	8.8%
GdF Suez	3,457	5.5%
Iren	2,664	4.3%
E.On	2,649	4.2%
Hera	2,310	3.7%
Royal Dutch Shell	2,146	3.4%
A2A	1,668	2.7%
Ascopiave	1,089	1.7%
Estra	829	1.3%
Erogasmet	606	1.0%
Linea Group Holding	453	0.7%
Sorgenia	445	0.7%
Gas Natural Sdg	442	0.7%
BG Group	439	0.7%
Unogas	426	0.7%
Energy Trading International	420	0.7%
Dolomiti Energia	417	0.7%
Utilità Progetti e Sviluppo	409	0.7%
Others	11,751	18.8%
<b>TOTAL</b>	<b>62,410</b>	<b>100.0%</b>

Source: Annual Survey on Regulated Sectors.

As was the case last year, the effect of the incumbent Eni grew in 2012 from 26.6% in 2011 to the current 28.1%. It remains the dominant group, and is still a long way ahead of the second-largest operator, the Enel Group, which holds only 10.9%. Like last year, the gap between the two widened further (17 percentage points compared with 15 in 2011 and 11.5 in 2010) due to a smaller reduction in sales to end users by Eni (-4%) compared with that recorded by Enel (-15.3%). The declines in final sales of the two pursuing groups in 2012 were larger still: -26.1% in the case of the Edison group and -28.7% in the case of GdF Suez. The Iren group returned to fifth place (from seventh in 2011), while the A2A Group, which was fifth in the standings in 2011, fell to ninth place. Finally, the return to fourteenth place of the Sorgenia group, which was not even in the top twenty in 2011, is worthy of note.

From the initial, provisional elaboration of the data collected in the annual survey, it emerges that there were 20.9 million customers in the natural gas retail market in 2012: 92.8% of these were domestic, 0.9% were central heatings, 5.2% came from the field of trade and services, 1.1% were from the industrial sector, 0.004% were from the thermoelectric generation sector and approximately 90,000 were related to public service activities (Table 4.7). The latter were introduced as a specific type of delivery point in accordance with the provisions of Legislative



Decree no. 93/11, and correspond to delivery points owned by public or private structures that carry out a recognised assistential activity, such as hospitals, nursing homes, rest homes, prisons and schools.

The proportions naturally tend to be reversed In terms of volume: if one also includes own use, the household sector made up 22.4% of the total gas consumed, or 16.8 G(m<sup>3</sup>), central heating with household use acquired 5%, or 3.7 G(m<sup>3</sup>), trade used 8.2%, corresponding to 6.2 G(m<sup>3</sup>), industry consumed 25.6%, that is 19.2 G(m<sup>3</sup>), electricity generation absorbed 37.3%, equivalent to 28 G(m<sup>3</sup>) and finally, public service activities used 1.5%, equivalent to 1.1 G(m<sup>3</sup>). The quota of volumes purchased on the open market, which averages 60%, tends to grow over time, as is normal, and gradually becomes more significant as one moves from areas such as the domestic sector to those for which gas is an input of the production process and where use is more intense. Thus, the quota of volumes purchased on the open market amounted to 16% for domestic consumption, 36% for central heating, 74% for commerce and services, 96% for industry, 60% for thermoelectric consumption (this value is affected by own use) and 67% for public service uses.

**Table 4.7. Final market by consumer sector in 2012**

Customers in thousands and volumes in M(m<sup>3</sup>)

CUSTOMERS AND VOLUMES	DOMESTIC	CONDOMINIUM DOMESTIC USE	TRADE AND SERVICES	INDUSTRY	ELECTRICITY GENERATION	PUBLIC SERVICE ACTIVITIES	TOTAL
Own use	1	0	1	0.09	0.06	0.00	2
Free market	3,094	59	549	121	0.61	0.03	3,824
Protected market	16,310	134	533	111	0.08	0.06	17,087
<b>TOTAL CUSTOMERS</b>	<b>19,404</b>	<b>194</b>	<b>1,083</b>	<b>232</b>	<b>0.74</b>	<b>0.09</b>	<b>20,913</b>
Own use	400	791	29	360	11,069	0	12,650
Free market	2,732	1,352	4,557	18,345	16,902	748	44,635
Protected market	13,694	1,612	1,600	492	4	372	17,775
<b>TOTAL VOLUMES</b>	<b>16,826</b>	<b>3,755</b>	<b>6,186</b>	<b>19,197</b>	<b>27,975</b>	<b>1,120</b>	<b>75,059</b>

Source: Annual Survey of Regulated Sectors.

The quantities sold to the end market decreased by 7.4% overall in 2012. If one excludes the sector of central heating, where consumption increased by 16.4%, and domestic use, which experienced a small decline of 1.4%, all productive sectors saw a marked decline compared with the previous year; this was largest in electricity generation (-15.6%), but was also significant in industry (-8.0%) and trade and services (-7.9%). Public service is not comparable, as it was only introduced in this year's survey.

The variations compared with 2011 shift if one considers free market values separately from those of the protected market (Figure 3.14). In fact, the slightly negative variation in the domestic market as a whole is due to a 9% reduction in the protected market and a simultaneous 38% increase shown by the free market (which affects the average less because its weight in terms of consumption is far below that of the protected market). A similar trend is also seen in sales to central heating, which rose in the free market by 10%, while in the protected market they fell by 19%. Consumption showed a decrease in both markets in the case of services, industry and electricity generation.

**Table 4.8 Final market by type and size of customers in 2012**M (m<sup>3</sup>)

SECTOR	CUSTOMERS SUBDIVIDED BY CLASS OF ANNUAL CONSUMPTION (m <sup>3</sup> )						TOTAL
	< 5,000	5,000- 50,000	50,000- 200,000	200,000- 2,000,000	2,000,000- 20,000,000	> 20,000,000	
<b>PROTECTED MARKET</b>	<b>14,220</b>	<b>3,004</b>	<b>480</b>	<b>65</b>	<b>6</b>	<b>0</b>	<b>17,775</b>
Domestic	13,307	383	3	2	0	0	13,694
Central heating s	123	1,256	227	6	0	0	1,612
Trade and services	611	850	116	23	0	0	1,600
Industry	124	300	57	12	0	0	492
Electricity generation	0	1	1	3	0	0	4
Public service activities	55	215	77	19	6	0	372
<b>FREE MARKET</b>	<b>3,340</b>	<b>3,321</b>	<b>2,062</b>	<b>4,418</b>	<b>8,659</b>	<b>22,834</b>	<b>44,635</b>
Domestic	2,607	109	9	6	2	0	2,732
Central heating s	27	837	358	118	11	0	1,352
Trade and services	571	1,518	778	944	744	2	4,557
Industry	105	652	758	2,997	6,772	7,061	18,345
Electricity generation	0	1	10	147	972	15,772	16,902
Public service activities	31	205	149	205	158	0	748
<b>TOTAL</b>	<b>17,560</b>	<b>6,325</b>	<b>2,542</b>	<b>4,483</b>	<b>8,665</b>	<b>22,834</b>	<b>62,410</b>

Source: Annual Survey of Regulated Sectors.

A breakdown of sales to the retail market net of own use by consumption sector and customer size is shown in table 4.8. If own use is eliminated, it can be seen that the free market meets 72% of consumption, compared with the 28% supplied by the protected market. As the customers increase in size, the free market acquires greater weight. In 2012, too, the presence of volumes and prices in the protected consumption classes over 50,000 m<sup>3</sup> in the case of diverse uses and over 200,000 m<sup>3</sup> in the case of central heatings<sup>164</sup> is due to the fact that they include purchases by those customers who have the right to change their supplier but have not yet made their choice and therefore remain within the contract terms protected by the Authority. These quantities are modest, however, being equal to 217 M(m<sup>3</sup>): that is, 0.3% of the total market.

#### 4.2.2.1 Monitoring the level of prices in the retail market, the level of transparency and the degree and effectiveness of opening up the market and competition

With regard to the supervision of sales prices in the retail market, the Authority has two information-gathering sources:

- the average conditions of supply of natural gas carried out in accordance with Resolution ARG/gas 64/09 of 28<sup>th</sup> May 2009, in which monthly data are collected every quarter on the

<sup>164</sup> By Resolution ARG/gas 71/11 dated 09<sup>th</sup> June 2011, the Authority restated the rules on customers entitled to protection and the manner in which notice of the termination of the transitional application of the protection service is given. By this measure, the Authority included use by non-domestic customers with a consumption of less than 50,000 m<sup>3</sup>/year and use related to public service activities (as indicated in the text) among customers entitled to the protection service, in addition to the existing categories: that is to delivery points of domestic customers and central heatings not exceeding 200,000 m<sup>3</sup> annually.

prices billed by sellers to domestic and non-domestic customers, divided into classes and sectors of consumption;

- the one carried out within the context of the annual survey of the regulated sectors, in which data are collected for the previous year and broken down according to various detailed categories (type of market, sector and class of consumption, type of connection).

As previously mentioned in Chapter 3, Resolution ARG/com 151/11 of 03<sup>rd</sup> November 2011 established a monitoring system of both the electricity and natural gas retail markets (TIMR), which provides the obligation for those carrying out the activity of the final sale of electricity and natural gas (with over 50,000 connection points served) to communicate data on the monthly average price of electricity charged on the final market to the Authority on a quarterly basis, along with numerous other indicators (see the following paragraph). In reality, since January 2012, the collection of average prices, which had formerly been carried out by the Authority pursuant to Resolution ARG/gas 64/09, has been merged (for sellers bound by the terms of the TIMR only) into retail monitoring mechanism.

Analysis of the same information for both sectors is particularly relevant in the context of the supply chain in which the activities carried out in relation to final customers are the same. For the natural gas sector, too, therefore, the data for 2012 - which relate to 53 distributors and 52 sellers of natural gas with regard to the gas sector, of which only 11 are single suppliers - will be used for the analysis reported in the first Annual Report, which contains the indices measured for 2012 and will be published by the Authority by 30<sup>th</sup> July 2013. Regarding identification of the obligated parties for 2013, these are 51 distributors and 51 sellers for the gas sector; of the latter, only 9 are single suppliers, while the remainder sell both electricity and natural gas.

The interim analysis of the data collected in the investigation carried out by the Authority in 2012 shows that last year the average price of gas (weighted by quantities sold), net of taxes, applied by sellers or wholesalers operating in the retail market was 45.53 c€/m<sup>3</sup> (Table 4.9). In 2011, this price was 39.24 c€/m<sup>3</sup>. Overall, therefore, the average cost of gas in Italy increased by 15.8%.

Customers of the protected service paid an average 57.68 c€/m<sup>3</sup> for gas, while the average price paid by free market customers was 40.69 c€/m<sup>3</sup>; the price differential in the two markets is therefore approximately 17 c€/m<sup>3</sup>, an increase of approximately 1.5 c€/m<sup>3</sup> compared with the price recorded in the prior year, due to the greater growth in average prices in the free market as compared with the protected service (16.7% versus 14.6%). This above differential, which is not far from the maximum difference recorded in 2009 (18 c€/m<sup>3</sup>), was obviously affected by the allocation of sales volumes among the various classes of consumer within each of the two markets. As we have seen in the previous section (Table 4.88), the average size of customers in the free market is larger, and this market also has the largest number of customers who are connected to the transmission network directly<sup>165</sup> and who do not pay the distribution and storage components, as well as a more flexible price system, in which indexing formulas respond more rapidly and more intensely to structural changes in the international markets, even though the amendments made from 2012 to the updating of prices established by the Authority tend to move in the same direction.

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<sup>165</sup> 96.5% of consumption in the "domestic + condominiums with domestic use + trade and services" sector is taken from distribution networks, while in the event of "industry + power generation", 81.5% of consumption is taken directly from the national or regional transmission network.

**Table 4.9. Average sales prices net of taxes on the final market**Eurocents/m<sup>3</sup>; classes of annual consumption expressed in m<sup>3</sup>

TYPE OF CONTRACT AND CUSTOMERS FOR ANNUAL CONSUMPTION CLASS	2008	2009	2010	2011	2012
<b>PROTECTED SERVICE</b>	47.36	48.84	44.62	50.35	57.68
Less than 5,000	48.57	49.49	46.44	52.47	60.09
Between 5,000 and 50,000 (A)	-	-	-	43.14	48.21
Between 50,000 and 200,000 (A)	-	-	-	42.63	48.09
Between 5,000 and 200,000 (A)	43.55	46.57	38.27	43.07	48.20
Between 200,000 and 2,000,000	38.90	46.30	34.71	37.87	40.60
2,000,000 to 20,000,000	38.89	36.04	29.00	30.35	45.86
Over 20,000,000	-	-	-	-	-
<b>FREE MARKET</b>	36.01	30.89	30.56	34.87	40.69
Less than 5,000	44.62	43.77	46.97	53.56	61.80
Between 5,000 and 50,000 (A)	-	-	-	44.87	51.57
Between 50,000 and 200,000 (A)	-	-	-	40.63	48.46
Between 5,000 and 200,000 (A)	42.19	42.17	38.70	43.05	50.38
Between 200,000 and 2,000,000	37.39	32.99	31.23	34.48	41.08
2,000,000 to 20,000,000	35.11	29.70	27.61	30.75	36.83
Over 20,000,000	34.90	27.89	28.95	33.06	36.71
<b>TOTAL</b>	39.25	36.59	34.85	39.30	45.53

(B) Until 2010, the price was recorded in a single class of customers consuming between 5,000 and 200,000 m<sup>3</sup>.

Source: Annual Survey of Regulated Sectors.

If one goes into detail for each class of consumer, one can see that it is mainly the larger customers that benefit from the most favourable conditions in the free market. It can also be seen that since 2010, the free market has provided less favourable conditions than has the protected service for the lowest classes of consumption (up to 50,000 m<sup>3</sup> a year). In general, it can be said that the ability to obtain more favourable contractual delivery terms is directly proportionate to the size of the customer, due to a better understanding of the market and more attention being paid to the terms and conditions of supply. In addition, as mentioned above, in the presence of significant structural changes in the international markets, certain types of supply on the open market may have penalized the customers who subscribed to them. The smallest customers in the protected market - those with a consumption of less than 5,000 m<sup>3</sup>/year - pay an average of 60.09 c€/m<sup>3</sup>. This price is similar to the national average value of the economic conditions of supply calculated for a domestic customer consuming 1,400 m<sup>3</sup> per year, which in 2012 amounted to 58.55 c€/m<sup>3</sup> (88.94 c€/m<sup>3</sup> including tax).

If we continue our analysis of customers of the protected service, we can see how prices tend to fall as consumption grows. It should be noted that the presence of volumes and prices in the classes of higher consumption is due to the existence of customers who have remained within the contractual terms established by the Authority; this is partly a result of the provisions of Legislative Decree no. 93/11, which allow certain categories to select this option.

In the free market, the size of the customer has a still greater effect on the supply price: smaller customers pay approximately 25 c€/m<sup>3</sup> more than large consumers. Higher levels of consumption

generally permit a reduction in fixed per unit costs. In particular, the effect of distribution tariffs is much greater for low levels of consumption (in 2012, the average cost to cover distribution was approximately 11 c€/m<sup>3</sup> for an average consumer using 1,400 m<sup>3</sup> who pays for the financial conditions of supply), while this component is not present at all for larger customers who are not connected to the distribution network. In addition, low consumption is characterized by a greater correlation with climatic trends, which involves storage costs and higher transmission costs.

It is also interesting to observe the cross-section of average prices not only by contract type and customer size, but also divided into consumer sector, as shown in Table 4.10.

**Table 4.10 Final retail market prices divided by market, consumer sector and customer size in 2010**

Eurocents/m<sup>3</sup>; classes of annual consumption expressed in m<sup>3</sup>

TYPE OF CONTRACT AND SECTOR	CUSTOMERS SUBDIVIDED BY CLASS OF ANNUAL CONSUMPTION						TOTAL
	< 5,000	5,000- 50,000	50,000- 200,000	200,000- 2,000,000	2,000,000- 20,000,000	> 20,000,000	
<b>PROTECTED SERVICE</b>	<b>60.09</b>	<b>48.21</b>	<b>48.09</b>	<b>40.60</b>	<b>45.86</b>	<b>-</b>	<b>57.68</b>
Domestic	60.45	52.25	48.94	43.46	-	-	60.22
Central heatings	50.72	45.21	50.21	45.96	-	-	46.34
Public service activities	53.37	49.74	50.18	47.52	45.86	-	50.22
Trade and services	55.55	50.59	44.88	34.59	-	-	51.84
Industry	55.12	47.80	43.37	40.13	-	-	48.94
Electricity generation	51.94	46.67	35.65	39.50	-	-	40.35
<b>FREE MARKET</b>	<b>61.80</b>	<b>51.57</b>	<b>48.46</b>	<b>41.08</b>	<b>36.83</b>	<b>36.71</b>	<b>40.69</b>
Domestic	62.57	50.98	47.40	44.77	39.20	-	62.01
Central heatings	55.93	52.01	51.16	46.46	39.79	-	51.27
Public service activities	56.39	51.17	48.55	47.52	38.98	-	46.42
Trade and services	59.47	52.06	49.20	42.01	38.52	36.73	48.20
Industry	58.33	50.09	46.45	40.36	36.38	35.96	37.90
Electricity generation	51.43	58.39	44.66	40.71	38.28	37.04	37.15
<b>TOTAL</b>	<b>60.41</b>	<b>49.98</b>	<b>48.39</b>	<b>41.07</b>	<b>36.84</b>	<b>36.71</b>	<b>45.53</b>

Source: Annual Survey of Regulated Sectors.

In the context of the protected service, the category that is most representative is small customers (0-5,000 m<sup>3</sup>), who are typically domestic and paid an average price of approximately 60 c€/m<sup>3</sup> in 2012, which is closer to the service average (57.68 c€/m<sup>3</sup>), while in the free market the overall average price was close to that paid by medium to large customers with a consumption of between 200,000 and 2,000,000 m<sup>3</sup> per year.

When making a comparison between the two markets, the results depend on the type and size of the consumer.

For the smallest domestic customers, the protected service appears to be mildly advantageous, but for consumption of between 5,000 and 200,000 m<sup>3</sup> per year the free market is more beneficial. A similar trend can be observed for public service activities, where the protected service is more economical for consumption up to 50,000 m<sup>3</sup> per year, while for the highest consumption levels, the free market is more advantageous. With regard to other productive activities (trade and services, industry, electricity generation), the free market is more

advantageous overall, but this ceases to be the case if the comparison is restricted to small-to-medium sized customers who can use the protected service. Finally, we see consistent results for residential central heating, for which the free market is more expensive in all classes of annual consumption, with an average increase of about 5 c€/m<sup>3</sup>.

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

The system for monitoring retail markets (which has already been described in detail in Chapter 3 and the previous section) is intended to allow the Authority to observe retail operating conditions on a regular and systematic basis, including the level of openness, competitiveness and transparency of the market, as well as the degree of participation of final customers and their level of satisfaction.

With reference to domestic customers, the Authority has introduced tools to:

- improve knowledge and understanding of the market and its rules. Among these initiatives, we have the publication of the *Atlas of the Rights of Energy Consumers (Atlante dei diritti del consumatore di energia)* and the adoption of the Resolution on the transparency of billing documents;
- facilitate the evaluation and selection of supply in the free market. Among these initiatives, we have the provision of the *Trova Offerte* (a tariff calculator) facility and the imposition of an obligation on the part of sellers to provide final customers with a cost comparison form before a contract is concluded.

With regard to monitoring activities, it should also be mentioned that 2012 saw the continuation of the activities foreseen in Legislative Decree no. 130/10, which introduced new measures in place of the so-called "anti-trust ceilings" to boost competition in the natural gas market through improvements to the storage infrastructure in favour of industrial and thermoelectric storage. In particular, in 2012, industrial entities that fund the construction of new storage capacity once again benefited from the so-called "transitional measures/virtual storage": that is, provisions that provide advance benefits equivalent to those that would have been due if the funded storage capacity were already operational (Article 9 of Legislative Decree no. 130/10). This mechanism is expected to continue until the gradual entry into service of the new storage capacity, and in any case not beyond 2015.

### **Switching**

The survey carried out with operators in the area of the transmission and distribution of natural gas also put a number of questions to them about switching: that is, the number of customers<sup>166</sup>

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<sup>166</sup> For the sake of simplicity, the text will use the generic term "customers". It should be explained, however, that this means the number of delivery points in the event of users of transmission and the number of groups of measurement in the event of users of distribution.

who changed their supplier in calendar year 2012<sup>167</sup>. The results of the survey, which are still provisional, have shown that the percentage of customers switching their gas supplier in 2012 amounted to 4.7% overall, or 45.2% when measured in terms of the volumes of gas consumed by customers who made a change.

**Table 4.11. Switching rates of final customers in 2012**

CUSTOMERS BY SECTOR AND CLASS OF ANNUAL CONSUMPTION	CUSTOMERS	VOLUMES
Domestic	4.5%	5.2%
Central heatings	5.9%	8.2%
Public service activities	7.7%	16.3%
Other uses	8.2%	54.8%
<i>of which:</i>		
- up to 5,000 m <sup>3</sup>	6.7%	8.5%
- 5,000 to 50,000 m <sup>3</sup>	12.9%	14.2%
- 50,000 to 200,000 m <sup>3</sup>	20.8%	21.5%
- 200,000 to 2,000,000 m <sup>3</sup>	30.9%	35.3%
- 2,000,000-20,000,000 m <sup>3</sup>	64.4%	69.6%
- over 20,000,000 m <sup>3</sup>	70.4%	56.8%
<b>TOTAL</b>	<b>4.7%</b>	<b>45.2%</b>

Source: Annual Survey of Regulated Sectors.

Table 4.11 also provides the details of these data, distinguishing customers by sector and amount of annual consumption. The data still show a certain liveliness in the domestic consumer sector, which maintained a switching rate of 4.5% in terms of numbers and 5.2% in terms of volumes in 2012. It is worth remembering that this figure comes after two years in which the level of movement among suppliers had already been significant in a class of customers that has traditionally always shown a high level of prudence when it comes to moving to the free market (the sequence of rates relating to previous years shows the following percentages of switches: 5.2% in 2011, 4.4% in 2010, 1.8% in 2009 and 1.1% in 2008 in terms of numbers of customers, and 5.7% in 2011, 4.8% in 2010, 2.4% in 2009 and 1.3% in 2008 respectively in terms of volumes).

Central heatings and other uses, as well as the new category of public service activities, have always been characterized by greater dynamism. In 2012, central heatings that changed supplier represented 5.9% of the total (8.2% in terms of consumption), and the percentage of entities managing a public service that chose to turn to a new supplier was 7.7% (16.3% of volumes), while "other uses" that have moved to the free market represented 8.2% of the overall total in terms of customers and 54.8% in terms of volumes. Obviously, the percentage of switches increases as the

<sup>167</sup> The questions were posed in order to detect the phenomenon applying the definition provided by the European Commission. The questionnaire that had already been proposed in recent years for the detection of switching activities was then replicated, the term being understood to be the number of changes in supplier over a given period of time (year) that includes:

- *re-switch*: when a customer changes for a second (or subsequent) time, including over the time period selected;
- *switch-back*: when a customer returns to the first or a previous supplier;
- *switch*: to a competitor of the incumbent company and vice versa.

In the event a customer changes his or her residence area, the *switch* is recorded only if it is to a supplier other than the incumbent existing in the area to which he or she moves. In addition, a change in economic conditions with the same supplier is not equivalent to a switch, even in cases where the choice is for a new contractual formula or a change from a protected price to one that is not protected offered by the same supplier or by a company controlled by it.

size class of customers grows. This is because as volumes of consumption increase, the cost of the purchase of gas rises, and consequently, there is a growing interest in the opportunity to make savings, which is generally the first motivation for changing supplier, especially in times of economic crisis such as the one we are currently experiencing. A time-based comparison using the last two years between the switching rates shown by consumers that allocate gas for other uses shows considerably greater mobility in 2012 compared with that of 2011, particularly in customers with an annual consumption of over 200,000 m<sup>3</sup>.

**Table 4.12. Switching rates by region and type of customer in 2012**

REGION	DOMESTIC		CENTRAL HEATINGS		OTHER USES		PUBLIC SERVICE ACTIVITIES		TOTAL	
	CUSTOMERS	VOLUMES	CUSTOMERS	VOLUMES	CUSTOMERS	VOLUMES	CUSTOMERS	VOLUMES	CUSTOMERS	VOLUMES
Piedmont	4.6	4.8	7.7	10.2	9.1	69.3	9.8	29.2	5.0	57.4
Aosta Valley	1.1	1.4	2.6	4.2	6.5	43.6	13.7	11.0	1.9	35.3
Lombardy	3.9	4.9	5.7	7.9	7.9	55.8	7.2	15.7	4.2	45.5
Trentino Alto Adige	2.3	2.3	2.6	2.3	2.4	61.5	0.7	9.1	2.3	51.5
Veneto	4.4	5.0	5.6	9.5	10.0	63.3	8.4	22.9	4.9	50.7
Friuli Venezia Giulia	4.4	5.9	5.2	8.8	10.8	54.0	8.9	12.6	4.9	45.9
Liguria	3.5	4.5	5.5	7.5	7.0	77.4	9.1	13.1	3.6	57.7
Emilia Romagna	3.8	4.5	3.8	7.5	7.5	47.8	6.8	9.3	4.2	40.5
Tuscany	5.4	6.2	5.4	8.0	8.5	59.2	25.3	46.7	5.6	49.5
Umbria	6.1	7.0	7.3	13.5	10.4	59.0	7.9	12.0	6.5	50.0
Marche	4.4	4.4	4.9	3.9	9.0	66.3	12.0	15.3	4.8	49.0
Lazio	5.3	6.5	8.2	9.4	8.5	63.8	3.1	4.2	5.5	48.2
Abruzzo	5.5	7.1	5.3	7.2	5.7	56.5	7.1	11.8	5.5	46.5
Molise	5.4	6.6	10.7	2.5	10.4	14.0	5.3	6.2	5.7	12.3
Campania	4.7	5.3	3.6	3.2	10.5	50.9	4.2	6.1	4.9	41.2
Apulia	4.3	4.7	2.5	3.8	6.8	41.8	3.6	10.6	4.3	35.7
Basilicata	4.0	4.7	4.9	7.9	8.2	67.8	2.6	5.0	4.2	49.0
Calabria	5.1	6.0	2.3	1.5	9.6	26.4	3.4	23.3	5.3	24.3
Sicily	4.8	5.3	3.6	2.8	7.7	20.4	2.4	4.6	4.9	18.7
<b>TOTAL</b>	<b>4.5</b>	<b>5.2</b>	<b>5.9</b>	<b>8.2</b>	<b>8.2</b>	<b>54.8</b>	<b>7.7</b>	<b>16.3</b>	<b>4.7</b>	<b>45.2</b>
NORTH	4.0	4.8	5.7	8.3	8.3	58.1	7.8	17.6	4.4	47.8
CENTRE	5.3	6.2	7.1	8.6	7.9	59.7	10.1	16.7	5.5	47.8
SOUTH AND THE ISLANDS	4.6	5.1	3.4	3.7	8.6	35.8	3.4	9.1	4.7	31.0

Source: Annual Survey of Regulated Sectors.

Domestic customers show fairly homogeneous territorial rates in all regions of Italy (Table 4.12), although those in the Centre demonstrate a slightly greater vivacity, with switching rates that are an average of 5.3% in terms of customers and 6.2% in terms of volumes, against a national average of 4.5% (customers) and 5.2% (volumes). Switching by condominiums with domestic use is decidedly concentrated in the Centre-North: if one analyses the data, there is more switching in the Centre in terms of customers (7.1% compared with a national average of 5.9%), while there is slightly more in the North if one looks at volumes (8.3% versus a national average of 8.2%). The results seen for both sectors are very similar to those of 2011.



A similar trend to that of central heatings is seen for public service activities. Here, too, the switching rate is greater in the Centre in terms of customers (10.1% against a national average of 7.7%), while the rate is higher in the North if one considers volumes (17.6% against a national average of 16.3%).

With regard to other uses, too, the areas in question vary depending on whether one is looking at customers or volumes. The South and the Islands is the area with the highest switching rate (8.6%) in terms of customers for this consumer sector; in terms of volumes, however, it is the area with the lower percentage, at 35.8%, compared with a national average of 54.8%. This latter figure shows that, unlike 2011, it is now in the South that smaller customers show the greatest mobility in the gas market.

In all sectors of consumption, the customers who showed the highest rate of supplier changes in 2012 (5.5% against a national average of 4.7%) are those resident in the Centre, while the North and the Centre were the areas with the highest switching rate in terms of volume: 47.8% versus a national average of 45.2%.

### Complaints and reporting

In the period between 01<sup>st</sup> January and 31<sup>st</sup> December 2012, of the total number of communications received by the Helpdesk with the sector identified that led to the creation of new files, which amounted to 35,864, 13,690 (about 38.1%) related to the gas sector. The number of communications decreased by 23% compared with 2011, due in large part to the fact that the initial difficulties relating to the implementation of the gas bonus had been solved. Again compared with the previous period, the percentage of complaints (96.7%) increased slightly, while the level of requests for information (3.297%) decreased. The percentage of reporting (0.01%) remained substantially stable, and the numbers – numerically speaking, and not just in percentages - remain very small.

**Table 4.13 Communications regarding the gas sector received by the energy consumers' Helpdesk in 2011 and 2012**

	2011		2012	
	GAS	TOTAL <sup>(A)</sup>	GAS	TOTAL <sup>(A)</sup>
Complaints	16,411	34,799	13,233	34,033
Requests for information	1,391	3,020	437	1,799
Reports	55	76	20	32
<b>TOTAL COMMUNICATIONS</b>	<b>17,857</b>	<b>37,895</b>	<b>13,690</b>	<b>35,864</b>

(A) Total for electricity, gas and dual fuel sector.

Source: Energy Consumers' Helpdesk.

The most frequent subjects of communications received by the Helpdesk in the gas sector in 2012 that can be classified are as follows: bonus 4,886 (36%), billing 4,654 (34%), the market 1,382 (10%), contracts 1,356 (10%), connections and works 516 (4%).

**Table 4.14 Subjects of communications relating to the gas sector received by the energy consumers' Helpdesk in 2012**

SUBJECT	TOTAL	PERCENTAGE
Billing	4,654	34%
Market	1,382	10%
Bonus	4,886	36%
Contracts	1,353	10%
Connections/works	516	4%
Prices and rates	142	1%
Technical quality	26	0%
Measurement	338	2%
Commercial quality	167	1%
Lack of competence	226	2%
<b>TOTAL CLASSIFIED</b>	<b>13,690</b>	<b>100%</b>

Source: Energy Consumers' Helpdesk.

In these percentage relationships, one sees in particular that compared with 2011 there has been a significant decrease in complaints regarding the gas bonus and a small reduction in complaints relating to the market and connection and works issues, while small increases can be seen in those relating to billing and contracts. The decrease in the number of complaints in absolute terms is mainly due to a much smaller number of complaints being received relating to the bonus than in the previous year due to the actions taken to solve the main issues relating to non-payment of the bonus, validation and questions regarding the submission of applications, including rejections of applications due to the information provided being different from that available to the distributor. As for billing, the main questions concerned consumption (payments on account, adjusted balances and requests for correction), compliance with billing schedules and readings or the use of self-readings of meters.

Compared with the free market, most communications concerned matters relating to alleged infringements of the Code of Business Conduct approved by the Authority, double billing and issues relating to changes in supplier. Starting from 01<sup>st</sup> June 2012, the market area also includes complaints handled under the special procedure provided for by Resolution 153/2012/ARG/com for unsolicited contracts.

With reference to contracts area, most communications involved the exercise of the right of withdrawal and termination of supply, transfers and supplies being cut off. Finally, as regards the connections and works area, complaints were focused on issues relating to activation and substitutions and the time required to perform these services.

#### **4.2.2.2 Recommendations on final selling prices, investigations, inspections and the imposition of measures to promote competition**

##### **Final selling prices**

By report no. 410/2012/I/COM of 11<sup>th</sup> October 2012, which was common to both the electricity and gas sectors (and which is described in detail in Section 3.2.2.2), the Authority illustrated the

appropriateness of maintaining the price protection system in relation to small customers on a transitory basis in order to keep the supply price of electricity and gas to the final consumer at a reasonable level, taking into account market conditions that remain characterized by insufficient competitive dynamics.

In addition, it should be noted that as in the electricity sector, the continuous monitoring of the dynamics of the retail gas market carried out periodically by the Authority, as required by the TIMR, (see paragraph 3.2.2.1) is functional to the regular and systematic observation of the operating conditions of the market and conformity of final sale prices with the provisions of Article 3 of Directive 2009/73/EC (see also paragraph 5.1 below).

### Investigations, inspections and the imposition of measures to promote competition effectively

The competences and powers of the Regulator in this area have been illustrated in Table 3.3.

With reference to the activities carried out by the Italian Regulator in 2012, four preliminary investigations were completed, including one regarding the conditions for the sale of electricity and natural gas on the open market – in common with the electricity sector, and therefore already illustrated in paragraph 3.2.4.

In the light of the report to the Authority by Snam Rete Gas regarding the non-payment by certain debtor users of significant amounts invoiced relating to financial balancing charges, by Resolution 282/2012/R/gas of 05<sup>th</sup> July 2012, the Authority initiated a **preliminary inquiry** aimed at looking in detail at **the modes of delivery of the balancing service** for the period between 01<sup>st</sup> December 2011 and 31<sup>st</sup> May 2012 in order to:

- prepare any actions within its power in the case of harmful conduct and failures to carry out its instructions;
- define payments of unclaimed credits to Snam Rete Gas. In this regard, while it is true that the rules set forth in Resolution ARG/gas 45/11 established a mechanism to cover the costs incurred by the balancing operator for uncollected receivables, it is equally true that the system cannot be charged for any costs resulting from a failure by the balancing operator to carry out all actions to limit and contain the risk arising from exposures to users in the context of the balancing service (maximum diligence clause);
- assess the presence of possible conduct relating to competency profiles of other administrative bodies.

The investigation period was later extended by Resolution 444/2012/R/gas of 25<sup>th</sup> October 2012 to include the modes of delivery of the balancing service for the period between 01<sup>st</sup> December 2011 and 23<sup>rd</sup> October 2012: that is, as a result of a new communication (dated 16<sup>th</sup> October 2012) in which Snam Rete Gas reported a case in which the guarantees provided by a user were rejected by the issuing bank.

By Resolution 263/2012/R/gas of 21<sup>st</sup> June 2012, the Authority launched a national **preliminary inquiry to evaluate the terms and conditions of supply of sales companies in the Italian wholesale market**, stating that the purpose of this investigation was to acquire information and data that would also be of use in the preparation of any interventions that were already in effect during the thermal year 2012-2013 to reform the economic conditions of the gas protection

service. The preliminary investigation, which concluded with Resolution 456/2012/R/gas of 31<sup>st</sup> October 2012, highlighted, among other things:

- a continuing and progressive trend in the two thermal years 2011-2012 and 2012-2013 towards wholesale transfer prices that are close to, if not substantially aligned with, the values obtainable on the market;
- the structural (and not contingent) nature of the differences recorded between the cost of procurement of retailers and the component to cover the costs of wholesale marketing of the economic conditions of the protection service, noting that approximately 50% of the volumes intended for customers entitled to the protected service were procured on the wholesale market, with reference to the most recent thermal years, at prices that were generally in line with those recorded on the short-term markets in the same period.

By resolution, 8/2012/E/gas of 19<sup>th</sup> January 2012, **a preliminary investigation was initiated as a result of the events of 18<sup>th</sup> January 2012 regarding the escape of gas from the pipeline in the area of Tresana (MS)**, which led to an interruption in gas supply in certain municipalities, in order to acquire information and data that would be helpful for reconstructing what had taken place and for assessing the consequences on the performance of services of transmission and distribution of natural gas.

During 2012, the Authority also carried out intensive surveillance and control activities to verify the conditions of disbursement of services of public utility (quality of service, safety, free access to networks, markets, prices, tariff subsidies, production incentives, etc.) and to determine the benefits - as well as the improvements - of the services provided to customers and end-users. Following its inspections, the Authority can both adopt measures of a prescriptive nature (orders to cease conduct that harms users, or warnings to perform) and sanctions or seek undertakings to repair loss in cases where non-performance or infringements of the law have been ascertained, and prescribe the administrative recovery of amounts unjustifiably collected.

Of the 130 inspections and requests for information carried out by the Authority in 2012 (in collaboration with other institutions and the *Guardia di Finanza* (Italian Tax Police) in the context of its supervisory and monitoring activities on the implementation of energy regulations, 78 concerned the gas sector. Regulation of the quality of services, and in particular emergency services, represented the main areas of intervention.

### **4.3 Security of supplies**

Legislative Decree no. 93/11, which implemented the Third Energy Package, assigns the functions and powers referred to in this section of the Annual Report to the EC (that is, monitoring the balance between demand and supply of energy, predicting future demand and available supplies, additional capacity and measures to cover peak demand or decreases in supply) exclusively to the Ministry for Economic Development.

## 5 CONSUMER PROTECTION AND DISPUTE RESOLUTION IN THE ELECTRICITY AND GAS SECTORS

### 5.1 Consumer Protection

#### Compliance with Annex 1 of Directive 2009/72/EC

Article 37, paragraph 1, letter n), and Article 41, paragraph 1, letter o) of Directives 2009/72/EC and 2009/73/EC require the regulator, in collaboration with other authorities, to ensure that measures for the protection of consumers, including those in Annex 1, are effective and are enforced. Table 5.1 illustrates the status of the implementation of the measures provided for in that Annex in Italy.

**Table 5.1 Status of implementation of the measures provided for in Annex 1.**

PARAGRAPH 1	LETTER	STATE OF COMPLIANCE
<i>Have a right to a contract with their service provider of electricity/gas that specifies a number of aspects.</i>	a)	This requirement is covered by Annex A to Resolution ARG/com 104/10 (Code of Business Conduct), which sets out the information to be provided before a contract is concluded and the main clauses which must be contained in a contract even though they are established independently by the parties. The Code of Business Conduct also provides that contracts must always be delivered to the final customer in hard copy format. Currently, the only compensation not yet foreseen is that relating to late billing, while in cases of inaccurate billing, the rules on billing adjustments allow the customer to obtain compensation in the event of a delay in adjusting a bill that has already been paid exceeding 90 days. For customers under the enhanced protection or protection regime, the obligation is fulfilled by Resolutions no. 200/99 and no. 229/01.
<i>Must be given adequate notice of any intention to modify contractual conditions and be informed about their right of withdrawal when the notice is given.</i>	b)	Article 13 of the Code of Business Conduct provides that the customer must be given 90 days advance notice of the contractual changes and has the right to terminate without cost if the customer does not agree with the new conditions. A right of unilateral modification must be expressly provided in the contract, otherwise it cannot be exercised.
<i>Must receive transparent information on applicable prices and tariffs and on standard terms in respect of access to and use of electricity and gas services.</i>	c)	Article 10 of the Code of Business Conduct requires that contracts include a concise section which clearly states the costs to be borne by customers for the supply of electricity and gas. In addition, Title IV of the Code of Business Conduct provides, at least for domestic customers, for the provision of a written comparison of the annual expenditure that customers would incur by subscribing to a particular offer, complete with an illustration of any costs associated with a request for different services.
<i>Must be offered a wide range of payment methods.</i>	d)	There is no obligation associated with the multiplicity of methods of payment; however, in the case of clients under the enhanced protection or protection regime, at least one payment method must be free of charges.

<i>General conditions shall be fair and transparent, and given in clear and understandable language. Customers shall be protected against unfair or misleading sales methods.</i>		<p>Article 10 of the Code of Business Conduct provides that contracts must be prepared using a readable font and clear language that is understandable for all final customers.</p> <p>In the electricity and gas sectors, Resolution 153/2012/R/com has strengthened and expanded the preventive measures already present in the Code of Business Conduct, in order to counter possible malpractices carried out towards final customers at the time of the contact made for the purpose of signing a new offer; a voluntary procedure has also been developed aimed at restoring the contractual situation preceding any contract that has not been requested.</p> <p>The Autorità garante della concorrenza e del mercato has general competence in the field of unfair and deceptive sales methods.</p>
<i>Shall not be charged for changing supplier.</i>	e)	There are no charges to the final customer for changing supplier.
<i>Shall benefit from transparent, simple and inexpensive procedures for dealing with their complaints.</i>	f)	The regulation of commercial quality of a sale (Annex A to Resolution ARG/com 164/08) provides that sellers must respond fully to customer complaints within a maximum term of 40 calendar days. Failure to comply with this obligation entails the provision of automatic compensation to the customer.
<i>Shall benefit from information about their rights regarding universal service (electric customers) or their rights to be supplied at reasonable prices (natural gas customers).</i>	g)	Reference information for consumers can be found on the Authority's website and in the <i>Atlante dei diritti del consumatore di energia</i> (Atlas of the rights of energy consumers). Information is also available through the call centre of the energy consumers' helpdesk, which is the single point of contact nationally for both the electricity and gas sectors.
<i>Have at their disposal their consumption data, and shall be able to, by explicit agreement and free of charge, give any registered supply undertaking access, to its metering data.</i>	h)	This is under way.
<i>Are properly informed of actual consumption and costs frequently enough to enable them to regulate their own consumption</i>	i)	Consumption data collected by the distributor on a monthly basis for electricity and at different times depending on annual consumption for gas (monthly, quarterly or every four months) are listed on the bill.
<i>Receive a final closure account following any change of supplier no later than six weeks after the change of supplier.</i>	j)	There is no obligation associated with the timing of issuance of the final settlement balance.
<b>PARAGRAPH 2</b>		
<i>Member States shall ensure the implementation of intelligent metering systems that shall assist the active participation of consumers in the electricity and natural gas supply market.</i>		<p>In the electricity sector, the roll-out of smart meters is almost complete.</p> <p>In the natural gas sector, by Resolution 28/12/R/gas, the Authority has proposed that the timeframe for the roll-out of gas metres previously provided for by ARG/gas 155/08 be updated.</p>

### Guarantees of access to consumption data

Legislative Decree no. 93/11 provides that the Authority must adopt new rules or modify existing ones within 6 months after publication of the Decree (31<sup>st</sup> December 2011), in such a way as to *".... allow consumers to have access to the relevant consumption data and require distribution companies to make the consumer data accessible to vendors, taking due care regarding the quality and timeliness of delivery of said data"*.

The regulations governing invoicing, which were completed in 2010 (see EC Annual Report 2011), also allow customers to be informed of their actual consumption data. In addition, by means of complaints and requests, customers can request data from the seller, which will request them from the distributor.

Owing to the extremely widespread diffusion of smart meters in the electricity sector, the final customer has current consumer data available as regards both power and energy, as well as the consumption values used for the last invoice, divided into peak/off-peak/mid-level hours, from an electronic display.

Finally, Italian legislation provides that through a central register of the delivery points and an accreditation system for operators, the Integrated Information System (IIS<sup>168</sup>) will develop procedures for the centralized management of the communication of consumption data and the development of the respective services; the first phase of implementation was begun and completed during 2012 (see paragraph 3.2.2.2).

### Public service obligations

The requirements relating to public service contained in Legislative Decree 93/11 (Article 35, paragraph 2, and Article 35, paragraph 3), in addition to those described later that relate to vulnerable customers, refer to:

- the right to switch within 3 weeks of application;
- access to transparent information relating to tariff and economic conditions and minimum contractual conditions;
- the measures required to guarantee consumers publication to end users of the checklist for consumers prepared by the European Commission containing practical information on their rights;
- for the purposes of promoting energy efficiency, the regulatory authorities must establish criteria that promote the optimization of the use of electricity by electricity companies, including by providing efficient energy management services, developing innovative formulas for supply and introducing smart metering systems and networks.

Since 2008, there has been an energy consumers' helpdesk at Acquirente Unico (Single Buyer) for information to final customers through call centres.

With reference to domestic customers, the Authority has introduced tools to:

- improve knowledge and understanding of the market and its rules. Among these initiatives, we have the publication of the Atlas of the Rights of Energy Consumers (*Atlante dei diritti del consumatore di energia*) and the adoption of the resolution on the transparency of billing documents;

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<sup>168</sup> Resolution ARG/com 201/10 of 17<sup>th</sup> November 2010.



- facilitate the evaluation and selection of supply in the free market. Among these initiatives, we have the provision of the *Trova Offerte* (a tariff calculator) facility and the imposition of an obligation on the part of sellers to provide final customers with a cost comparison form before a contract is concluded.

Memoranda of understanding have also been established with consumer groups to promote consumer information.

The "*Code of Business Conduct for the Sale of Electricity and Gas to End Users*"<sup>169</sup>, which widely implements the requirements of the third energy package (see Table 3.19), governs the right of access to transparent information relating to tariffs and economic conditions as well as the minimum contractual conditions for final customers.

Switching procedures were strengthened by the Authority in 2011<sup>170</sup>, in particular as regards the flow of information between distributor and seller relating to the passage of data and timing in such a way that the seller can use them for billing based on sure timeframes, and flows have been facilitated by communication standards. The term of three weeks in switching procedures as laid down by Directives 72/2009/EC and 73/2009/EC was also introduced in 2011<sup>171</sup>.

### Definition of vulnerable customers – electricity sector

Legislative Decree no. 93/11 does not provide a specific definition of vulnerable customers with reference to the electricity sector (as is the case with natural gas: see below). In any event, Article 35 on Public service obligations and consumer protection establishes that all domestic consumers and small businesses with fewer than 50 employees and a turnover of less than € 190 million that do not choose their supplier on the free market will be served within the context of the protected system (Article 1, paragraph 2 of Decree-Law no. 73 of 18<sup>th</sup> June 2007, converted into Law no. 125 of 03<sup>rd</sup> August 2007). It also states that in relation to the evolution of competitive conditions in the retail market, following monitoring carried out at least every two years, the Ministry for Economic Development may update the forms of delivery of the protected service, particularly with regard to industrial customers.

In 2012, in addition to the quarterly updates of the consideration for the protected service, measures were initiated to revise time slots, and to complete the regulation of arrears and the systems for compensation for breaches of contract by final customers.

Since January 2009, there has been a protection mechanism for the supply of electricity specifically aimed at residential customers who find themselves in situations of financial hardship or suffering from serious health conditions, who receive a bonus or discount on the supply of electricity. On 31<sup>st</sup> December 2012, the number of applications for the bonus submitted by individual citizens who had passed all the checks with regard to their eligibility requirements by municipalities and the electricity distribution companies admitted to the bonus scheme exceeded 4.5 million, including renewals. The number of families who took advantage of the bonus at least once was approximately two million, and the number of families with an active bonus in 2012 was 951,570, of which 17,200 benefited from an electricity bonus because they were in a state of

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<sup>169</sup> Annex A of Resolution ARG/com 104/10.

<sup>170</sup> Resolution ARG/com 146/11 of 27<sup>th</sup> October 2011.

<sup>171</sup> Resolution ARG/elt 210/11 of 29<sup>th</sup> December 2011.

physical hardship. The value of compensation has been upgraded for 2013 by an adjustment of the rates.

In 2012, changes were introduced to the regulation of the electricity bonus for customers suffering from serious health conditions (electricity bonus for physical hardship)<sup>172</sup>. The new mechanism takes into account the type of equipment used, the average hourly consumption of each type of equipment and the average number of hours of daily use. The new methods for calculating the electricity bonus for physical hardship are also retroactive. A special notice was sent to all holders of the electrical and physical bonus to inform them of this possibility. Communications initiatives aimed at reaching potential beneficiaries were also launched, including through information and increasing awareness on the part of Local Health Authorities, in order to stimulate the maximum level of dissemination of information both to those already receiving the bonus and to potential beneficiaries.

### Definition of vulnerable customers - Gas sector

Legislative Decree no. 93/11 defined vulnerable customers as domestic customers, non-domestic customers with a consumption of less than 50,000 S(m<sup>3</sup>) a year and final customers whose use is related to public service activities: that is, users owning a public or private structure that carries out a recognised assistance activity, including hospitals, nursing and rest homes, prisons and schools. The Decree also provided that in the case of vulnerable customers in the context of public service obligations, the Authority will temporarily continue to determine the reference prices that sales companies include in their commercial offers. In addition, the Decree established that by the Decree of the Ministry for Economic Development, in accordance with the provisions of Article 30, paragraphs 5 and 8 of Law no. 99 of 23<sup>rd</sup> July 2009, the criteria and methods for the supply of natural gas in the context of the service of last resort (FUI) should be identified and updated, on conditions that encourage the search for a new supplier on the market for all vulnerable customers.

Pursuant to Legislative Decree 93/11 (Article 7, paragraph 7) and Ministerial Decree of 03<sup>rd</sup> August 2012, the following are entitled to a last resort supply: final customers who may be cut off (domestic customers, including condominiums, with a consumption not exceeding 200,000 S(m<sup>3</sup>) per year and other customers with a consumption not exceeding 50,000 S(m<sup>3</sup>) per year (see Title IV, Section I of the *Integrated Gas Sales Act - TIVG*) who are without a supplier for reasons beyond their control), and final customers who cannot be cut off (users relating to public service activities who find themselves without a supplier for any reason. The FUI is provided by operators selected on the basis of insolvency proceedings commenced by Acquirente Unico. The above predictions are confirmed by the current protection status established by the Authority under the TIVG, which provides for:

- a specific protected service: that is, an offer calculated on the basis of the economic conditions of supply specified by the Authority, which each sales company is required to include among the offers made to vulnerable customers;
- regulation of each last resort supplier (FUI) through the conditions of delivery of the service.

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<sup>172</sup> Changes introduced by Resolution 02<sup>nd</sup> August 2012, 350/2012/R/eel pursuant to Ministry of Health Decree dated 13<sup>th</sup> January 2011 entitled "*Identification of medical-therapeutic equipment powered by electricity required to keep people with serious health conditions alive*", and pursuant to the provisions of Ministerial Decree dated 28<sup>th</sup> December 2007.

With regard to the framework outlined above, situations in which customers other than those entitled to FUI find themselves without a supplier have not been taken into consideration. In these cases, critical situations would be created for the system, because certain gas deliveries from the network would not be attributed to any operator, which would result in direct withdrawal. Legislative Decree no. 93/11 has established that in these cases, the distributor with territorial jurisdiction must ensure balancing of the network in relation to delivery at this point for the period for which physical disconnection has not been possible, according to terms and conditions defined by the Authority.

In this regard, the Authority has provided for the establishment of the default service, which was set up by Resolution ARG/gas/99/11 of 21<sup>st</sup> July 2011, in compliance with the requirements of Article 7, paragraph 4(c) of Legislative Decree no. 93/11. This service is provided where the requirements for activation of the last resort service are not present, and is aimed primarily at ensuring balancing of the distribution network for withdrawals made by a customer without a seller.

In 2012, the Ministry for Economic Development adopted Decree dated 03<sup>rd</sup> August 2012, which provided a series of requirements for the Authority for the purposes of the selection and effectiveness of FUIs which implemented<sup>173</sup> the provisions of the Ministerial Decree, in order to permit the operation of FUIs from 01<sup>st</sup> October 2012. In this case, the Authority:

- added to the number of customers entitled to receive the last resort supply, including final customers holding delivery points that cannot be disconnected falling within the categories provided for in Title IV, Section I, of the TIVG who, for reasons beyond their control, have no supplier;
- defined the appropriate mechanism for settling unrecoverable costs to FUIs associated with non-payment by these final users who cannot be disconnected, establishing incentivizing criteria for the management of these customers' receivables;
- outlined the guidelines for the performance of the procedures for the selection of FUIs by Acquirente Unico.

Pursuant to the above measure, subsequent to publication on its website of the procedural regulations, Acquirente Unico carried out the selection of FUIs and published a notice regarding the outcome of the procedures for identifying FUIs for the 2012-2013 thermal year.

New measures were also adopted for the default service in 2012. The general regulations were added to by:

- a definition of the mechanisms for covering the costs to the distributor for the provision of the default service, including adequate remuneration<sup>174</sup>;
- rules governing transitional distribution providers (FTD) – that is, vendors selected through competitive procedures who undertake to assume the status of user of the distribution service in cases of direct withdrawals<sup>175</sup>.

Consistent with the provisions prepared for distribution networks, it was also necessary to establish an appropriate discipline for the default service for transmission networks which, for the

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<sup>173</sup> Resolution 353/2012/R/gas of 03<sup>rd</sup> August 2012.

<sup>174</sup> Resolution 352/2012/R/gas of 03<sup>rd</sup> August 2012.

<sup>175</sup> Resolution 540/2012/R/gas of 13<sup>th</sup> December 2012.

purposes of system security, identifies the entity that guarantees the balancing of delivery points that do not have a balancing/transmission user. By Resolution 249/2012/R/gas of 14<sup>th</sup> June 2012, the Authority intervened for this purpose to adjust the default transmission service provided by the largest transmission enterprise. This was also necessary and urgent in the light of the evolution of the regulation of the balancing service, and in particular the numerous situations reported by the transmission company of serious and repeated breaches by certain users of transmission and balancing services. In addition, the new mechanism of guarantees to offset the exposure of the system to users relating to the balancing service provided by the largest transmission enterprise<sup>176</sup> in force as of 01<sup>st</sup> June 2012, imposed their regulation based on criteria of greatest efficiency by providing procedures for the termination of transmission contracts in cases where the guarantees submitted by the user fall below the level required to be completed within seven days (instead of the twenty days previously established) from the date on which the breach was noted.

The Authority also subsequently intervened in this area with later actions<sup>177</sup> introducing appropriate mechanisms for covering the risk of non-payment incurred by the transitional supplier, in order to protect the requirements of certainty and to promote effective participation in the selection procedures handled by the largest transmission enterprise.

With regard to interventions on the protected system in the natural gas field, it should be noted that with reference to the economic conditions of the protection service, the Authority undertook a thorough review of the regulations in 2012, specifically relating to the determination of components to cover the costs of wholesale and retail marketing in the light of the evolution of the gas market, also taking account of the new laws and regulations that had been introduced in the meantime.

In particular, with effect from 01<sup>st</sup> April 2012, the Authority established the initial implementation of the provisions of Decree Law no. 1 of 24<sup>th</sup> January 2012, which among the parameters based on which the adjustment of the reference prices for natural gas for vulnerable customers is adjusted to European values called for the gradual introduction of the gas prices quoted on the market. More specifically, the Authority changed<sup>178</sup> the formula for calculating the component of wholesale marketing of natural gas by introducing a weighting test between supply on the short-term market (which had not previously been considered in the formula) and procurement by long-term contracts, in part to take into account the observed diversification in forms of supply by sellers.

In the context of a subsequent consultation, the Authority also proposed making further changes to the method of calculating the component of wholesale gas marketing in order to permit more efficient coverage of the procurement costs of the various operators. This proposal was formulated with the aim of including the results of processes of periodic renegotiation of supply contracts for natural gas, with a more gradual view being taken compared with the changes that had already been introduced, as described just above. Both the sharp decline in demand and the development of competition in the wholesale markets and, in particular in short-term markets, have contributed towards aligning the Italian prices (net of transmission costs) identified in these markets with European prices. Specifically, the Authority proposed that the CCI component relating to raw materials be calculated from 01<sup>st</sup> April 2013 on based solely on the wholesale spot market price in order to permit improved allocation of the cost of wholesale supply attributable to it to each final customer, thereby ensuring consistency between the costs incurred by the sellers for the supply of natural gas and the revenues attributable to the application of the economic conditions of the

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<sup>176</sup> Approved by the Authority with Resolution 181/2012/R/gas of 08<sup>th</sup> May 2012.

<sup>177</sup> Resolutions 306/2012/R/gas of 19<sup>th</sup> July 2012 and 363/2012/R/gas of 12<sup>th</sup> September 2012.

<sup>178</sup> Resolution 116/2012/R/gas of 30<sup>th</sup> March 2012.

protection service. Furthermore, in order to mitigate the market risks arising from the new ways of exploiting the CCI component, which might result in greater volatility in final prices, the Authority provided for the introduction of an insurance mechanism that would also take account of the different composition of the portfolio of supply by retail sellers and consequently the varying impacts on the economic-financial equilibrium of enterprises that are implicit in the transition to the new structure of raw material prices applied to final customers. The results of the consultation have, however, highlighted certain problems associated with the restricted timeframes for the implementation of the reforms and the excessively optimistic forecast of the gas forward market organized by the GME and chosen as a reference market for the development of the component relating to raw materials.

Consequently, the Authority subsequently provided for a process for implementing the reforms divided into several phases:

- a first phase of implementation of the reform in the period between 01<sup>st</sup> April and 30<sup>th</sup> September 2013, in which the structure of the formula for calculating the CCI component is maintained, while increasing the weight of the index relating to short-term market prices and consequently reducing the weight of the index relating to the prices of long-term contracts indexed to the prices of petroleum products;
- a second phase of full implementation of the reforms, effective from 01<sup>st</sup> October 2013, in which the methods for determining the component relating to the wholesale marketing of gas will be completely transformed and innovated and accordingly that of the other components that go to define the economic conditions of the protection service;
- a third phase, which is expected to begin to operate after 01<sup>st</sup> October 2014, in which coverage tools with respect to market risks will be introduced in the context of the economic conditions.

The Authority commenced the first phase of implementation of the reforms<sup>179</sup> in March 2013, and updated the value of the storage service component with effect from 01<sup>st</sup> April 2013, based on the results of the auction mechanisms for the allocation of capacity for the flagship service (see paragraph 4.1.2).

With regard to supplies of natural gas, an active protection mechanism has been in effect since January 2009 specifically aimed at domestic customers in situations of economic hardship or suffering from serious health conditions who receive a bonus or discount on the supply of electricity. At 31<sup>st</sup> December 2012, more than two million instances of gas bonuses had passed all checks of eligibility requirements by municipalities and gas distribution companies and had therefore been admitted to the bonus scheme, including renewals. Over one million families had used the subsidy at least once, and there were more than 609,000 families with an existing bonus at 31<sup>st</sup> December 2012. The compensation granted for 2009, 2010, 2011, 2012 and 2013, both as regards retroactive and ordinary quotas, has a market value estimated at approximately 200 million euros.

### Interventions common to both the electricity and gas sectors

In 2012, the Authority, between its actions to protect consumers and end users, once again gave priority to combating the phenomenon of the **unsolicited activation of contracts for the supply of**

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<sup>179</sup> Resolution 124/2013/R/gas of 28<sup>th</sup> March 2013,.

**electricity and/or natural gas**, which has already been the subject of numerous reports and complaints sent to the Authority and the energy consumers' helpdesk.

In order to guarantee and promote the rights of final customers and the smooth functioning of the retail market, the Authority first intervened in this area by establishing accurate recognition of the phenomenon in order to identify the various options for solving the problem and share them with the interested parties. After an ongoing dialogue with all the stakeholders, and based on the results of consultations, the Authority approved Resolution 153/2012/R/com<sup>180</sup>, which provides for the adoption of preventive and reinstatement measures in cases of unsolicited contracts and activations for the supply of electricity and/or natural gas.

The scope of application of these regulations concerns the relationship between sellers of electricity and natural gas and final customers:

- of electricity services and those entitled to greater protection;
- of gas services and those considered to be vulnerable customers, excluding customers holding uses related to public service activities.

The measure introduces new information requirements for sales companies: in the event of contracts concluded at a distance or outside business premises, the seller must always send the customer a confirmation letter before submitting a switching request to the distributor; in the event of a sale outside business premises only, as an alternative to sending a confirmation letter, the seller must contact the customer by telephone to record confirmation of the customer's contractual intent (confirmation call). These forms of compulsory communication allow the customer to reject the contract immediately (confirmation call) or by a written complaint (letter of confirmation). Following transmission of a complaint regarding an unsolicited contract, the seller may not request the suspension of supply for non-payment until the dispute has been settled, and, in the event of rejection of the complaint, in addition to responding to the client, the seller must send the energy consumers' helpdesk the appropriate documentation to demonstrate that it has properly complied with its information obligations towards the customer (letter of confirmation or call). Within 10 working days, the helpdesk assesses whether or not the characteristics of the documentation received trigger activation of the reinstatement procedures, which in the event switching has already been carried out will permit the customer to be reinstated to their previous situation.

With regard to the preventive measures, the order states as follows: where companies individually or jointly adopt self-governing protocols regarding contracts and unsolicited activations, these documents must provide for the activation of additional procedures for the prevention of the phenomenon compared with the obligations already provided for by the Authority's regulations; a person responsible for controlling and monitoring implementation of the protocol must be appointed; and measures for non-compliance with the protocol must be regulated. Following Resolution 153/2012/R/com, three companies have adopted this type of voluntary tool, with the involvement of consumer associations.

The features of the reinstatement measures are as follows:

- the voluntary nature of participation in the proposed procedures, with the exception of enhanced protected service operators, which are obliged to apply the above procedures automatically; participation is effected *ex ante* by the operators themselves, and is made

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<sup>180</sup> Resolution of 19<sup>th</sup> April 2012.

available to the public by publication of a list of the sellers that have voluntarily adopted the self-regulation procedures on the Authority's website;

- a reinstatement procedure to permit reinstatement of the situation in effect prior to activation of the unsolicited contract in favour of the final customer;
- the regulation of financial amounts accrued in the context of the transfer between the operators involved for the period in which the customer has been supplied by the seller with which he or she signed an unsolicited contract (transitional period).

With the reinstatement procedure, if a seller that has signed an unsolicited contract and obtained switching (an unsolicited seller) acknowledges the situation or is unable to demonstrate to the helpdesk that it has adopted all the measures to ascertain the actual wishes of the final customer, it is required to notify the seller who supplied the final customer previously (the previous seller) and the distributor that the contract has been terminated, and to indicate that this termination is due to an unsolicited contract. In these cases, it is provided that the previous seller will submit the switching request to the distributor.

As for regulation of financial aspects during the transitional period, the regulations provide that the unsolicited seller will apply the economic protection conditions defined by the Authority to the final customer, with the exception of the component relating to retail marketing, so that the seller is only granted coverage of the costs incurred for the use of its infrastructure and the supply of the energy consumed by the final customer, but is not paid for costs relating to activities typical of those required for retail selling.

Finally, the rules governing unsolicited contracts provide for specific monitoring of these contracts by the Authority, based on information provided by the distributors, with regard to requests for the termination of unsolicited contracts, by the helpdesk and by the sellers, with regard to complaints made by final customers; this is to enable an overall assessment of the phenomenon, with the publication of relevant information relating to the conduct of operators and the establishment of a list of sellers of unsolicited contracts, to provide final customers with news relating to the conduct engaged in by individual sellers. The significant data relating to the monitoring activities with reference to the period between June and December 2012 have been communicated.

Finally, measures were taken in 2012 to **complete the regulations relating to arrears** with reference to the formal notice procedure, and completion of the rules regarding the compensation system and preliminary guidelines on the provision of information regarding non-payment.

## 5.2 Dispute Management

Article 44, paragraph 4 of Legislative Decree no. 93/11, which implemented Directives 2009/72/EC and 2009/73/EC in Italy, provides, *inter alia*, that the Authority “will guarantee the effective handling [...] of final customers’ conciliation procedures with regard to sellers and distributors of natural gas and electricity using Acquirente Unico”.

Pursuant to these provisions, the Authority has established the Conciliation Service for Energy Customers<sup>181</sup>, approving the rules governing initial implementation and assigning development of the operational plan and the implementation and management of the Conciliation Service itself to Acquirente Unico, with operational effectiveness from 01<sup>st</sup> April 2013. The project is in an experimental stage and has a renewable term of 12 months.

The Conciliation Service is one of the extra-judicial dispute resolution procedures available to final clients in the electricity and gas sectors to resolve problems arising with their service provider (usually small claims). It is in line with evolving EU legislation, which among the objectives associated with the spread of Alternative Dispute Resolution (ADR) tools for the benefit of consumers, has emphasized on the one hand the need to achieve the resolution of problems directly with the provider through a complaint prior to commencing an ADR procedure, while on the other providing that the procedures will be carried out on-line and in the presence of an impartial third party, based on the principles of immediacy, effectiveness and efficiency. The service requires that a complaint be submitted to the provider in order for the relevant proceedings to be activated, and provides that conciliation should be carried out before a third party arbitrator with specific expertise in mediation and the energy sector and should take place entirely on-line.

The arbitrators have been identified by means of specific agreements concluded with the Chambers of Commerce of Milan and Rome, in order to ensure proven and specific expertise in the field of mediation for the experimental launch of the service. In order to refine and increase knowledge of the energy sector on the part of the arbitrators, the Authority has organized appropriate training courses with Acquirente Unico.

The service is a "universal" arbitration system by virtue of the breadth of its scope of application, as regards both potential users and the disputes that are subjected to the procedure. It may be activated by those domestic and non-domestic final customers in the electricity sector who are entitled to enhanced protection and those in the gas sector who are considered vulnerable<sup>182</sup> with regard to disputes arising with an operator (a distributor and/or seller of electricity and/or natural gas) relating to electricity and/or natural gas service, with the sole exception of disputes relating to tax and fiscal profiles, for which the law requires an express reservation of exclusive jurisdiction. Following the experimental phase, it is expected that the range of beneficiaries of the procedure will also be extended to *prosumers* (that is, to subjects that are customers and producer of electricity at the same time), limited to plants of up to 10 MW.

The Authority has therefore put all the requirements for the Conciliation Service to become operational in place, including the creation of a list of operators participating in the conciliation

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<sup>181</sup> Resolution 260/2012/E/com of 21<sup>st</sup> June 2012.

<sup>182</sup> Customers may be assisted in the procedure and also represented by proxies to compromise and settle the dispute, including associations of domestic or non-domestic final customers. For this assistance activity and possible representation, associations of domestic customers are given a financial contribution by the Sanctions Fund, on the basis of a project proposed by the Authority and approved by the Ministry for Economic Development.



procedure, subdivided between distributors and sellers, and with voluntary registration, which aims to publicize and give visibility to the participation of operators in the Conciliation Service. On the occasion of the launch of the experimental phase of the conciliation service, the Authority created a special area on its website dedicated to conciliation.

Specific information on the topic of alternative dispute resolution is also provided by the helpdesk's call centre by means of a dedicated button. Information is the main tool for permitting final customers to navigate through the conciliation procedures, with specific reference to those aimed at final customers in the electricity and gas sectors: that is, the conciliation service and joint services.

With regard to joint conciliation, the Authority continues to support them by training the staff of consumer organizations who are engaged in conciliation and payment of a contribution to these associations in the event of a positive outcome of the procedure.