Comisión

Nacional

de Energía

SPANISH REGULATOR'S ANNUAL REPORT TO THE EUROPEAN COMMISSION

26 July 2006

1. PREFACE

This report is in response to the formal request made by the European Commission through the Director General of Energy and Transport to the President of the European Regulators Group for Electricity and Gas (ERGEG).

The electricity and gas Directives require of the European Commission the drafting of a series of follow-up reports on both sectors. These Directives also impose requirements on the regulatory authorities relating to the issuance of a report to the European Commission on certain areas of the electricity and gas markets.

For this reason, since the end of 2005 representatives of the European Commission and ERGEG have been working on the structure of the report presented here, which includes all the report requirements contemplated in the above-mentioned Directives.

Of the subjects dealt with, those which stand out most are questions relating to the behaviour and regulation of the agents in both electricity and gas network activities, the competition of the electricity and gas wholesale markets, the security of the supply and questions relating to the nature of electricity as a public service.

2. SUMMARY/MAIN EVENTS OF THE YEAR

BASIC ORGANISATIONAL STRUCTURE OF THE REGULATORY AUTHORITY[1]

Composition of the Board of Commissioners of the Spanish National Energy Commission (CNE)

The Commission is governed by a Board of Commissioners, which is made up of a President, in whom the Commission's legal representation is vested, eight members and a Secretary, who shall act with the right to speak but without the right to vote.

[1] Information taken from the eleventh provision of the hydrocarbons act (Law 34/1998) and from the Spanish National Energy Commission's Regulations (Royal Decree 1339/1999)

Main Statutory Objectives

One: To act as the Administration's advisory body on energy-related matters.

Two: To participate, through reports or proposals, in the process of drafting general provisions affecting the energy markets and, in particular, in the regulatory implementation of the present Law.

Three: To participate, through reports or proposals, in the energy planning process.

Four: To participate, through reports or proposals, in the process of preparing projects on the establishment of tariffs, tolls and the remuneration of energy activities.

Five: To report on the new energy installation authorisation proceedings, when they are the competence of the General State Administration.

Six: To issue the reports requested by the Autonomous Regions when this is deemed to be necessary in the exercising of their energy-related competencies.

Seven: To issue circulars for the application and execution of the rules contained in Royal Decrees and the Orders of the Ministry of Industry, Tourism and Trade in application of the energy regulations, always provided that these provisions expressly authorise it to do so.

These provisions shall receive the name of Circulars and shall be published in the «Official State Gazette».

Eight: At the request of the General State Administration, the competent Autonomous Regions or, ex officio, the Spanish National Energy Commission, to inspect the plants' technical conditions, fulfilment of the requirements established in the authorizations, the correct and effective use of autochthonous coal in electricity power plants with the right to collect the autochthonous coal consumption premium, the activities and economic conditions of agents to the extent that they may affect the

application of energy activity tariffs, prices and remuneration criteria, the effective availability of generating plant in the ordinary regime, the correct conditions of sale and billing by suppliers and distributors to consumers and qualified clients, the electricity energy supply's continuity, the quality of the service and the effective unbundling of these activities when so required.

Nine: To act as an arbitrage body in any conflicts which may arise between the agents who carry out activities in the electricity or hydrocarbons sectors. The exercising of this arbitral function shall be free of charge and shall be of a non-public nature. This arbitration function, which shall be voluntary for the parties, shall be exercised in accordance with Arbitration Act 36/1988 of 5th December and the regulatory rules which may be issued on the corresponding arbitrage procedure and which shall be approved by the Government.

Ten: To establish the agents to whose activities shall be attributed responsibility for deficiencies in the supply to users, proposing any measures which may have to be adopted.

Eleven: To agree on the serving of penalty proceedings and to carry out the hearing thereof, when they are the competence of the General State Administration and, when so required, to report on penalty proceedings served by the different public Administrations, without prejudice to the competencies attributed to the Petrol Products Strategic Reserves Corporation in Section 52.4 of this Law.

Twelve: To ensure that the agents which act in the energy markets in the conducting of their activities respect the principles of free competition. To this end, whenever the Commission detects the existence of signs of restrictive practices prohibited by Restrictive Practices Law 16/1989 of 17th July, it shall make this known to the Restrictive Practices Service, contributing all the items of evidence within its scope and, as and when applicable, a non-binding opinion of the particulars of offence.

Thirteen: To settle any conflicts which may be raised in respect of contracts relating to the access of third parties to the transport and, as and when applicable,

distribution networks, in the terms and conditions which may be established in the regulations.

Fourteen: To authorise the stakes taken by companies with activities deemed to be regulated in any trading corporation or subject to any special administrative requirement. Such authorizations may be refused on the grounds of the existence of significant risks or negative effects, whether direct or indirect, on the activities regulated under this Law. The CNE should also take into account in its analysis the goals of the Spanish energy policy, with special attention to the strategic assets, such as, nuclear plants, some coal plants and, in general, regulated activities assets.

Fifteen: To furnish a mandatory report, with non binding effect, on transactions involving the concentration of companies or the taking of control of one or several energy companies by another which carries out activities in the same sector, when such transactions have been submitted to the Government for its decision, in accordance with the prevailing legislation on the subject of competition.

Sixteen: To agree on its organisation and internal working, and to select and hire its personnel, complying with the requirements established in the prevailing regulations on the subject within the scope of the General State Administration.

Seventeen: On an annual basis, to prepare a report on its activities, which shall be referred to the Government for its remission to the Spanish Parliament.

Eighteen: To perform all those other functions which may be attributed to it by virtue of the law or which, by virtue of the regulations, may be entrusted to it by the Government at the proposal of the Ministry of Industry, Tourism and Trade.

In addition to the functions referred to in the previous section, in respect of the electricity sector, the Commission shall be responsible for the following:

One: To carry out the settlement of electricity transport and distribution costs, the system's permanent costs and all those other costs which may be established for the entire system, whenever their settlement is expressly entrusted to it.

Likewise, on a half-yearly basis, it shall report to the Ministry of Industry, Tourism and Trade on the energy settlement carried out by the market operator in conjunction with the system's operator.

Two: To settle any conflicts that may arise in connection with the system's economic and technical management and transport.

In connection with the gas sector, and in addition to the functions referred to under point 1 above, the Commission shall be responsible for the following:

To carry out the settlement corresponding to revenue obtained from tariffs and tolls relating to the use of the Basic Network, secondary transport and distribution installations referred to in Section 96.

To solve any conflicts that may arise in connection with the natural gas system's technical management.

Main Instruments for exercising these Functions

The CNE does not have the power to impose penalties. This corresponds to the Ministry of Industry, Trade and Tourism.

Independence and Control

The President and members of the Board of Commissioners shall be appointed amongst persons of well-known professional and technical competence, through a Royal Decree, at the proposal of the Ministry of Industry, Trade and Tourism, after the appearance thereof and a debate in the competent commission of the Lower House, so as to confirm the candidates' compliance with the conditions indicated in this section. The President and members of the Board of Commissioners shall be appointed for a period of six years and may be re-elected for a further period of the same duration.

Nevertheless, the Board of Commissioners shall partially renew its members every three years. This renewal shall alternatively affect five or four of its members, as applicable.

In the event that during the period of office, one of its members were to resign from or cease in its office, its successor shall cease on the termination of its predecessor's term of office. When this latter cessation occurs before one year has elapsed since the appointment, the limit established in the second paragraph of this section shall not apply and such successor's term of office may be renewed on two occasions.

The President and members may be removed from office for the following causes:

a) Expiry of the term of office, continuing to act until the appointment of the new members who replace him/her
b) Resignation accepted by the Government
c) Permanent disability for the exercising of his/her functions, incompatibility occurring subsequent to his/her appointment as a member of the Commission or conviction of an offence subject to the hearing of the proceedings by the Ministry of Industry, Tourism and Trade, serious non-fulfilment of his/her obligations or dismissal by the Government, at the reasoned proposal of the Ministry of Industry, Tourism and Trade.

The President and members of the Board of Commissioners shall be subject to the incompatibility regime established for top-level offices of the General State Administration. On being removed from office and for the next two years, they may not conduct any professional activity relating to the energy sectors. The economic compensation which corresponds by virtue of this limitation shall be established in the regulations.

The Spanish National Energy Commission's economic and financial control shall be carried out by the State Administration General Inspectorate, pursuant to the provisions of Sections 17 and 99.3 of the Revised Text of General Budget Law, without prejudice to the functions which correspond to the Court of Auditors.

Without prejudice to the control established in this connection by Spain's General Budget Law, the Ministry of Industry, Tourism and Trade shall exercise control over the efficacy of the Spanish National Energy Commission's activities. The purpose of this control is to verify the degree of fulfilment of its objectives and the adequate use of the resources allocated to it.

In order to implement this control, on an annual basis, the Spanish National Energy Commission shall draw up an Action Plan in conjunction with the Ministry of Industry, Tourism and Trade, which shall be responsible for monitoring its execution. Every quarter, the Spanish National Energy Commission must remit a report to the Ministry of Industry, Tourism and Trade, in which it shall indicate the actions carried out and the annual Action Plan's degree of execution during that quarter, justifying, as and when necessary, any deviations from the Plan's forecasts which may have arisen.

The preparation of the Action Plan referred to in the previous paragraph shall be deemed to be without prejudice to the Action, Investment and Financing Programme which, in accordance with the Revised Text of General Budget Law, must be submitted to the Government for its approval on a yearly basis.

As per the provisions of Spain's Hydrocarbons Sector Act, each year the Spanish National Energy Commission shall draw up an activity report, which it shall refer to the Government for its remission to the Spanish Parliament.

Information on the existence of overlapping jurisdictions with other Government Agencies

The CNE's jurisdiction does not overlap with that of any other government agencies. What do exist are complementariness and a spirit of co-operation.

Main Events in Spain's Electricity and Gas Markets

Electricity Market

Since the last European Commission Benchmarking Report, worthy of note is the fact that the increase in the annual electricity demand continues to be important. In the coverage of this demand, the contribution of the combined cycles has also increased significantly. The year 2005 is one of very low rainfall, which has partly led to an increase in the wholesale market's weighted prices.

As regards the retail market, there has been a mass transfer of consumers from the regulated market to the deregulated market.

At present, and at the request of the Ministry of Industry, Tourism and Trade, the production market is in the process of being reviewed. The resulting study's conclusions will be used to review the regulatory framework in the electricity production activity.

Gas Market

The natural gas demand rises 18.14% to 377.137 GWh in 2005. The consumption of combined cycles continues growing, representing 42% of total consumption. This year the high gas prices discouraged consumption made by some industrial customers, like cogeneration.

At the same time, supply diversification continues at the same level than last year, with new supplying countries like Egypt.

The deregulated market increased up to 84% of total consumption in 2005, the remaining 16% of the sales are still in the regulated market.

It is important to point out, the new legal developments occurred during 2005, underlining the passing of the Spanish Network Code.

There has been a strong increase in demand, partly due to the incorporation of new combined cycles.

Also worthy of note in the retail markets is the large increase of consumers in the deregulated market.

Both Spanish electricity and hydrocarbons markets are in process of a wide regulatory reform following the provisions set in the Royal Decree-Law 5/2005 and Law 24/2005 on productivity measures. Some legal developments of the mentioned legislation are:

- Royal Decree 1454/2005 on measures regarding the electricity market.
- Royal Decree-Law 3/2006 on some measures regarding the electricity power generation market.
- Draft on the implementation of some measures regarding 2003/54/EC of the European Parliament and of the Council concerning common rules for the internal market in electricity.

Referring to the Spanish natural gas frame, the recent legal developments are:

- Royal Decree 942/2005 modifying some provisions on hydrocarbon matters.
- Orden ITC 3126/2005 on Network code.
- Draft on the implementation of the Directive 2003/55/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in natural gas.

Main Subjects handled or settled by the CNE

A list of the main questions recently handled by the regulator is given below:

- Reports on some Royal Decrees of the productivity improvement in order to transpose some provisions regarding the electricity and gas Directives 2003/54/EC and 2003/55/EC into the Spanish law.

- Report on the merger GAS NATURAL SDG, S.A.-ENDESA, S.A.

- Report on the Royal Decree of gas tariffs and tolls.

- Report on the natural gas switching process.

- Report on some provisions regarding the Council common position for a Regulation 1775/2005 on conditions for access to the gas transmission networks.

3 REGULATION AND PERFORMANCE OF THE ELECTRICITY MARKET

3.1 REGULATORY ISSUES [ARTICLE 23(1) EXCEPT "H"]

3.1.1 General

Degree of market opening and likely future developments including the current % of the market open to competition and the eligibility threshold

The Spanish electric energy production market was set in motion in January 1998. Since its beginnings, all electric energy production plants under the ordinary regime with a power in excess of 50 MW had the obligation of participating in the free market, with only the plants under the special regime and those under the ordinary regime which had joined the bilateral contracting system being released from this obligation. Subsequently, in 2002, it was established that the production units under the special regime whose power exceeded the 50 MW threshold also had the obligation of participating in the free market.

In connection with electricity supplies, initially a progressive liberalisation calendar was established, which has been modified on several occasions. Thus, in January 1998, the retail electricity market's consumption threshold was established at 15 GWh/year, representing in the region of 26% of the demand. Later, during 1999, the eligibility threshold was extended on four occasions, as follows:

- As at 1st January 1999, consumers with consumption in excess of 5 GWh/year, representing approximately 33% of the demand, were eligible.
- On 1st April 1999, consumers with consumption in excess of 3 GWh/year, representing approximately 37% of the demand, were eligible.
- On 1st July 1999, consumers with consumption in excess of 2 GWh/year, representing approximately 40% of the demand, were eligible.

- On 1st October 1999, consumers with consumption in excess of 1 GWh/year, representing approximately 43% of the demand, were eligible.

During the year 2000, the eligibility level was again extended, with the effective date being 1st July 2000, with which all the consumers connected to high voltage (greater than 1 kV) were offered the possibility of renegotiating their supply contacts.

Finally, and since January 2003, the Spanish regulation grants the right to all consumers to freely negotiate their supply contracts with any duly authorized electric energy supplier in Spain, as a result of which this date represents the retail market's complete liberalisation to free competition (100% eligibility threshold). The foregoing notwithstanding, the prevailing regulation allows consumers to be supplied by the distributor under a regulated tariff, which is reviewed and published annually by the Government.

3.1.2 Management and Allocation of interconnection capacity and mechanisms to deal with congestion

The congestion extend should be assessed, both nationally and on cross border links.

The rules being, or to be applied under the Regulation on cross-border electricity exchanges should be set out, including rules governing the provison of information to the market by TSOs and DSOs in the context of congestion management.

To what degree is congestion management integrated with the functioning of wholesale markets?

An assessment of the computation of transmission capacity by TSOs

At present, the capacity of the international interconnections is allocated as laid down in Order of 14th July 1998, by virtue of which the legal regime applicable to external agents for carrying out intra-Community and international electric energy exchanges was

established. The allocation mechanism comprises two related processes, one based on implicit auctions, executed within the Daily Market, and the other explicit auctions for the allocation of capacity to bilateral transactions. The distribution of capacity between the two processes takes place in proportion to the capacity requested in them.

In effect, these capacity allocation mechanisms serve to define the use of the capacity at the borders with Portugal and Morocco. However, in the interconnection with France, the Spanish and French sides use different mechanisms. With a view to co-ordinating allocation on the two sides of this interconnection, in January 2005 the Spanish and French regulators, CNE and CRE, reached a common position on a new joint allocation mechanism. This common position was presented by the CNE and the CRE at the mini Forum held on 21st January 2005 in Madrid. This metod will consist on:

- explicit auctions before the day-ahead to allocate physical capacity rights
- completed by a day-ahead market coupling mechanism allowing the best use of the safely available capacity.

The consistency between these two “market-based” allocation mechanisms would be ensured by a “use it or get paid for it” rule. Thus, market actors who have obtained capacity rights in the previous explicit auctions will freely choose between the two following options:

- using their physical rights by scheduling firm bilateral contracts before the market-coupling mechanism or
- not using them, automatically transferring them in the market-coupling process and receiving the corresponding day-ahead PXs price differential

However, while agreeing on this common target, both regulators anticipate some practical difficulties to implement it in the short term, recommending a progressive approach with 3 different steps;

- step1: Implementation of an Explicit Auction mechanism, comprising auctions at different time frames (annual to day-ahead) with the application of a pure “use it or

lose it" rule. This first step constitutes a significant improvement to the actual situation being fully compliant with Regulation 1228/2003.

- step 2:Introduction of a day-ahead market –coupling mechanism with a cap (about 15%) on the percentage of capacity reserved for this mechanism.

- step 3: the full features of the proposed mechanisms shall be implemented, transforming the "use it or lose it" rule into a "use it or get paid for it" rule and suppressing the cap to the capacity management by the market coupling mechanism in order to allow the market actors to freely choose the best way to use their rights.

Within the framework of the Iberian Electricity Market there will be one market operator and two system operators. There is a common position between CNE and ERSE based on a market splitting mechanism in order to manage the cross border congestion. At the beginning there will be two market operators: one for the spot market (OMIE) and the other in charge of forward market (OMIP), these two market operators will be merged into one (OMI).

3.1.3 The regulation of the tasks of transmission and distribution companies

In Spain, the System Operator is the transport company, REE. As the authority responsible for the system's technical management, its purpose is to guarantee the electricity supply's continuity and security and the production and transport system's correct co-ordination.

Balancing Markets

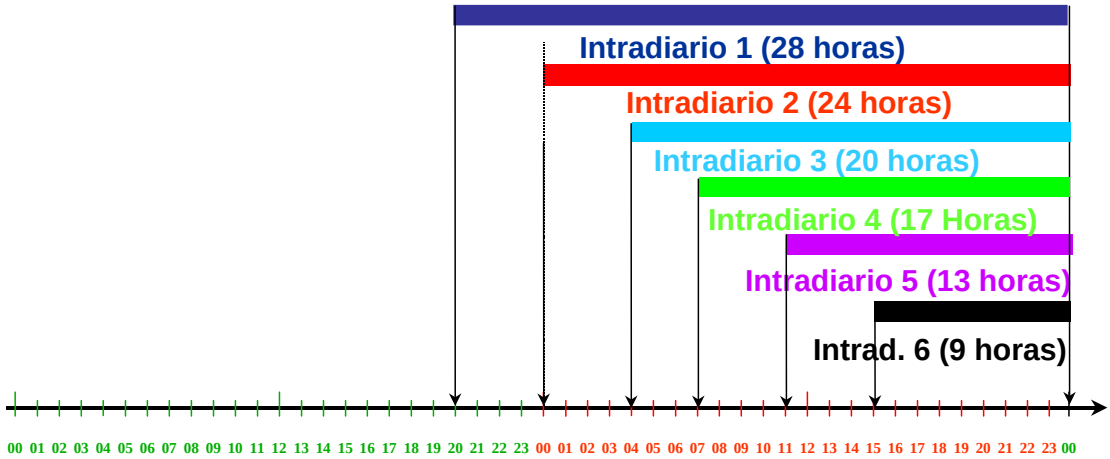
Regulators should summarize the balancing arrangements that have been put in place by TSOs and describe the regulators' role in approving the methodology according to the Directive. A description should be given of how the needs of small

participants and new entrants have been taken into account. The following indicators should be reported:

− Balancing interval in minutes
− A description of the relevant balancing areas
− Interaction between areas, whether bids from other areas or Member State can be accepted by the System Operator and to what extendl this occurs
− Time of gate closure
− Opportunities for intra-day trading and revision of nominations
− Typical prices charged to network users to resolve imbalances
− The process and timetable for the settlement of deviations

What information must be provided to market participants by the TSOs regarding the balancing mechanism.

Subsequent to the holding of the daily market, and for the purpose of adjusting as close to real time as possible any deviations forecast by the agents, the possibility exists of being able to modify the programming established in the market through the presentation of offers to the intra-day market. For this purpose there are currently six sessions in the intra-day market with programming periods which vary between 28 hours (first intra-day) and 9 hours (sixth intra-day), as shown on the attached graph, and with a period for the reception of offers which, depending on the market session, varies between 2.15 and 3.15 hours.



Intra-day 1 (28 hours)
Intra-day 2 (24 hours)
Intra-day 3 (20 hours)
Intra-day 4 (17 hours)
Intra-day 5 (13 hours)
Intra-day 6 (9 hours)

At the same time and in order to guarantee the electricity system's security, Spanish Electricity Power Act 54/1997 establishes that the objective of the System Operator is to guarantee the supply's continuity and security under principles of transparency, non-discrimination and independence. For this, and in accordance with section 1 of Article 31 of Royal Decree 2019/1997 of 26th December, by virtue of which the electric energy production market is organized and regulated, the System Operator proposed the organisation of the management of the complementary services markets and the solving of the system's technical restrictions in accordance with operating procedures which were approved by means of a Resolution approved by the Ministry of Industry, Trade and Tourism, after the report of the Spanish National Energy Commission.

In these procedures all the Spanish electricity system's balancing markets, in addition to the market mechanisms for offering these services, are established and defined. Moreover, it is the System Operator itself which grants to the agents with the capacity to offer these services the necessary authorization for offering complementary services through effective technical accreditation. For the rendering of the secondary regulation service, there are 6 regulation zones which coincide with the groupings of the units of each one of the 6 major generating groups currently in existence (Endesa, Iberdrola, Hidrocantábrico, Unión Fenosa, Viesgo and Gas Natural), in which each company has its

own plant control office or centre, which is automatically connected to that of the System Operator.

The allocation of complementary services, specifically the allocation of secondary and tertiary reserves, is carried out in a competitive market environment. Two hours prior to the holding of each market, the System Operator informs the market agents of the minimum needs or requirements for fulfilling these services. These markets are held on the day prior to and on the same day as the supply date and cover the following day's 24 hours of programming in 60-minute periods.

The energy used in 2005 in the system's technical operation processes amounted to 8,401 GWh and represented a cost of 820,483 k€ (including the cost of secondary tranche allocation), which represents a cost per unit of diverted energy of some 78 €/MWh.

So as to establish the correct allocation of payments for the agents' balancing markets, it is necessary to know exactly the metering of each one of them. For this the maximum terms for the reception of metering figures in the System Operator's main concentrator have been established in the corresponding operating procedure (these terms vary depending on the type of metering point) and, as from the fifteenth calendar day of the month following that to which these metering figures correspond, they are no longer accepted or taken into account for calculating the corresponding estimates which have to be made by the System Operator. In principle, and failing the necessary metering data for calculating the correct settlement of system deviations, a provisional settlement is made based on the generation and consumption programmes, so that subsequently, and no later than the nine months subsequent to the month to which the metering figures correspond, final settlements based on firm or estimated (failing real data) metering figures can be made.

Access Tariffs

Each year the Government approves both the access tariffs and integral tariffs, through the publication of a Royal Decree. The tariffs are unique and maximum throughout Spanish territory. Similarly, pursuant to Hydrocarbons Act 34/1998 of 7th October, the

CNE has the function of participating, through proposals or reports, in the process of drawing up projects on the establishment of tariffs, tolls and the remuneration of energy activities.

In order to obtain a basis for the reports on the draft electricity tariff Royal Decrees which it sends annually to the Ministry or for making proposals to the Ministry, the CNE requests from the different agents in the sector the necessary information for estimating not only the system's costs but also the revenue corresponding to the forecast year.

In particular, the request information is the cost of the transport and distribution installations of each one of the companies, the installations' characteristics, revenues and expense budgets from institutions whose remuneration is chargeable to the tariff, forecast demand in power plant bars and its coverage from the system's Operator.

In order to calculate the system's revenue, information is requested from companies on their forecast billing variables (number of customers, consumptions and power) and on the participation of customers in the deregulated market, broken down by tarification group, for both the end of the year in progress and the following year, in which the new tariffs will be applied. These data are compared with information available by this regulated activity settlement Commission. Likewise, information is requested on forecast generation under the Special Regime, which is compared with the information in the Commission's possession.

Two stages can be differentiated in the tarification exercise: the first in which the mean tariff level is established, i.e. the cocient between the system's costs and the forecast end consumer demand. When compared with the previous year's mean tariff, this cocient provides the variation in the system's mean or reference tariff. The second stage consists of transferring variations to each integral tariff and each access tariff which allows the system's costs to be recovered.

In connection with the transport activity, the remuneration of new installations is carried out at the service's cost price, estimated at standard costs. Similarly, the remuneration base initially established in 1998 is up-dated using a CPI-x formula.

At the same time, remuneration of the global distribution activity, not individual for each company, is established in accordance with a revenue cap formula, the initial basis of which was established in 1998. In this connection, it should be noted that the CNE is currently working on the development of a methodology for establishing the individual remuneration of each distributor company. This methodology is based on an analysis of the regulatory information to be requested from distributor companies and the development of a reference network model.

Estimation of mean network access tolls, relating to the most recent information period available, referred to the typical consumers defined in Eurostat

Electricity Access Tariffs of Typical Consumers (cent€ /kWh). Year 2005

Typical Consumers	Annual Consumption (KWh)	Power (kW)	Access Tariffs (cent€/kWh) (3)
Dc (1)	3 500 (2)	4 - 9	5,23
Ib	50 000	50	5,36
Ig	24 000 000	4 000	1,08

(1) This is not a representative domestic customer in Spain. Tariff 2.0N / 2.0NA is applied

(2) As per the Eurostat definition 1300 kWh nocturnal consumption

(3) Without tax

The prices shown in the above table, published in Royal Decree 2392/2004, correspond to the year 2005. The access tariffs (network charges) include transport, distribution and commercial management costs in addition to other levies included in the access tariff as per Spanish Electric Power Act 54/1997, Royal Decree 1164/2001 and Royal Decree 1432/2002. In particular, the following costs are included: the Market Operator, the CNE, the System Operator, Off- peninsular Compensation, the cost for the transition to competition, the cost of the Nuclear Moratorium, the 2nd part of the nuclear fuel cycle, compensation to distributors included under the 11th Temporary Provision for interruptibility and purchase of electricity from generating facilities under the special regimen, the special regime surcharge, the imbalance in revenues prior to 2003 and the review of the extra-peninsular generation cost for 2001 and 2002.

On the other hand, losses from access tariffs, which are included in the customer generation cost, are not taken into account.

Note: In connection with the three typical consumers selected in the questionnaire, it should be noted that the domestic consumer *Dc*, with nocturnal discrimination, is not representative of domestic consumers' electricity consumption in Spain.

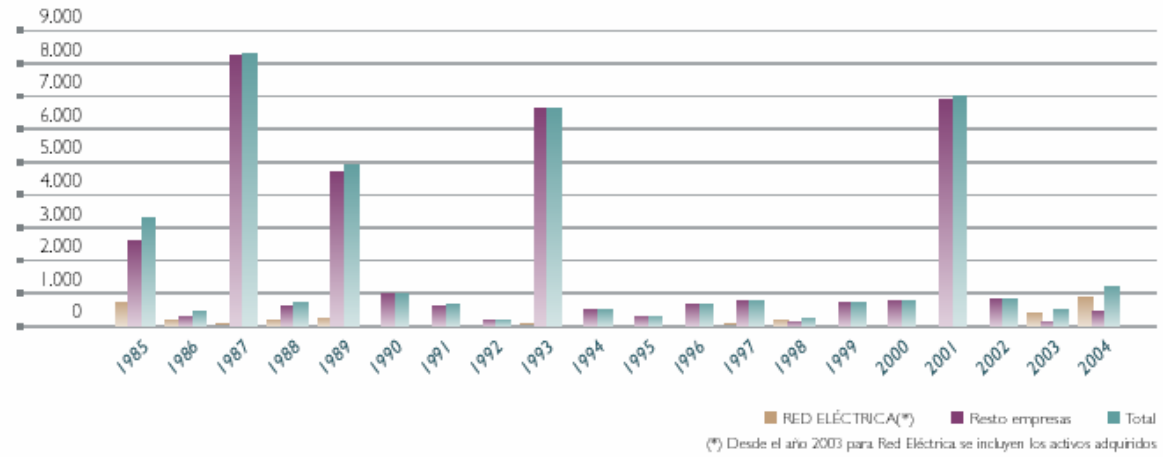
Evolution of quality of service indicators

The Royal Decree 1955/2000, dated December 1st, regulating transmission, distribution, trading and supply activities and authorisation procedures for electric power installation, established a series of representative parameters of the service quality in the transmission grid, that are used for the establishment of incentives and penalties. The service quality in transmission is a general requirement per frontier point and installation.

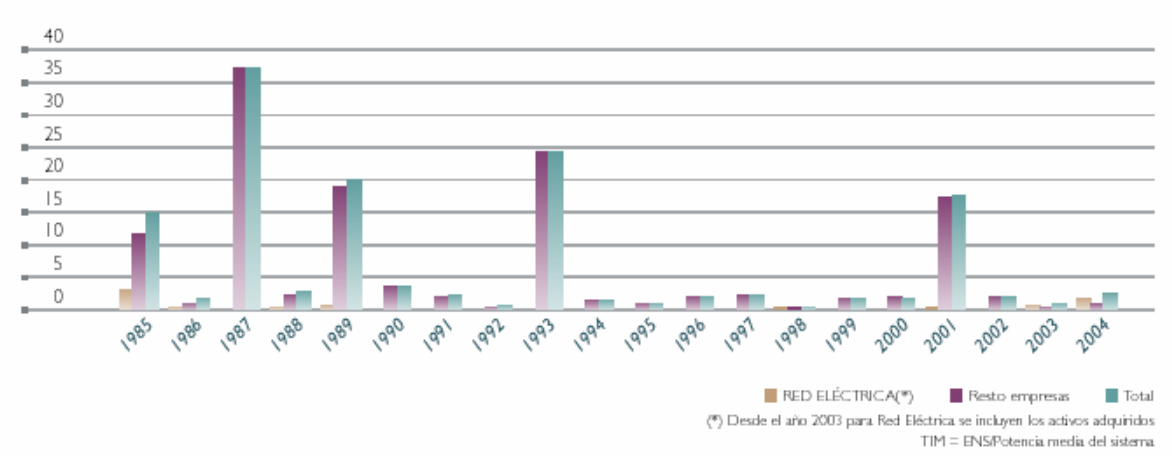
The transmission grid overall quality measurement indicators are the power not supplied (ENS), the average interruption time (TIM) and the availability index (ID).

In 2005, the power not supplied, in the mainland transmission grid, has been 506 MWh, while the average interruption time of this year was 1,08 minutes.

Power not Supplied (ENS) (MWh). Year 2004.



Average Interruption time. Year 2004



The distribution companies are forced to maintain the area quality levels assigned to those zones where they develop its activity.

The measurement of the area quality are the TIEPI (time of interruption equivalent to the installed capacity), the percentile of the TIEPI (value of the TIEPI that is not exceeded by 80 per cent of the municipal districts in the provincial scope), and the NIEPI (number of interruptions equivalent to the installed capacity).

Evolution of the TIEPI.

	1997	1998	1999	2000	2001	2002	2003	2004	2005
ANDALUCÍA	3,52	2,57	2,46	2,37	3,59	3,28	3,28	3,85	2,72
ARAGÓN	2,33	1,55	2,36	2,32	1,87	1,53	2,34	1,47	1,24
ASTURIAS	2,15	1,36	2,37	1,70	1,52	1,17	1,19	1,32	1,19
BALEARES	6,13	2,53	2,09	6,78	9,60	2,95	6,65	2,32	1,88
CANARIAS	2,83	3,27	4,30	3,44	2,86	6,21	3,47	2,06	8,95
CANTÁBRIA	1,26	1,58	2,24	4,02	1,87	1,17	1,59	2,12	1,53
CASTILLA-LEÓN	2,92	2,24	2,69	1,96	1,92	1,33	1,68	1,39	1,49
CASTILLA-LA MANCHA	5,75	3,46	3,61	3,27	3,11	2,19	2,39	2,11	1,87
CATALUÑA	2,42	2,17	3,43	2,29	3,83	3,01	2,55	1,42	1,34
EXTREMADURA	8,23	3,87	3,17	3,72	3,38	2,54	3,10	2,74	2,13
GALICIA	4,87	3,31	2,69	3,85	5,17	2,64	2,04	2,11	1,59
MADRID	1,25	1,24	1,34	1,20	1,54	1,15	1,16	1,21	1,07
MURCIA	2,70	2,11	2,65	2,42	2,94	2,05	2,40	1,90	2,04
NAVARRA	1,57	1,23	1,89	1,16	0,99	0,91	1,85	2,35	1,29
LA RIOJA	1,08	1,19	2,28	1,05	1,10	1,37	1,10	1,70	1,26

PAIS VASCO	1,16	0,84	2,42	1,17	0,94	0,82	1,38	1,21	1,37
C.VALENCIANA	1,90	1,58	2,30	2,75	2,43	2,19	2,34	2,34	1,91

3.1.4 Effective unbundling

Whether legal ownership has been implemented yet for TSOs and DSOs

How many TSOs and DSOs

How many TSOs, DSOs are ownership unbundled

Details on the ownership of TSOs and an overall review of the ownership structure for DSOs

In order to adapt Directive 2003/54/EC to the Spanish legislation system, the Spanish Governement has drafted and approved a Draft Law (hereinafter referred to as "A*nteproyecto de Ley*"), that will become into force as soon as it goes through the appropiate administrative proceedings.

The "Anteproyecto de Ley" amends the Spanish Electric Power Act 54/1997. Therefore most explanations relate to the modifications introduced by the mentioned "Anteproyecto de Ley".

The Spanish Electric Power Act, in article 14, requires the legal unbundling of activities whereby regulated tasks such as the technical management of the system, transmission and distribution must be separated from the rest of the activities. Within a group of companies however, activities may be carried out that are deemed incompatible by the Act, provided that they are actually performed by different companies in the group.

Companies have adapted their structures following this legal framework; thus legal unbundling has already been implemented.

The "Anteproyecto de Ley" will introduce modifications on such article 14 so as to include as well the independence of organisation and decision making of TSOs and DSOs where TSOs and DSOs are part of vertically integrated undertakings (adaptation of articles 10 and 15 of Directive 2003/54/EC). The modified article 14 will state that:

1. Companies that engage in one or more of the regulated activities – system management, transmission and distribution – must have as their sole corporate purpose the performance of such activities, where they may not engage in generation and commercialisation.

2. Nevertheless, a group of companies may undertake activities that are incompatible under the preceeding sections, provided they are performed by different companies and meet the following criteria:

a) Those persons responsible for the management of companies engaged in regulated activities may not participate in company structures of the integrated undertaking responsible, directly or indirectly, for the day-to-day operation of the generation and commercialisation activities;

b) Appropriate measures must be taken to ensure that the professional interests of persons responsible for the management of companies engaged in regulated activities are taken into account in a manner that ensures that they are capable of acting independently. In particular, guaranties must be adopted regarding their remuneration and cessation.

Companies that carry out regulated activities and those persons responsible for their management may not participate in the share capital of companies engaged in generation and commercialisation.

c) Companies carrying out regulated activities shall have effective decision-making rights, independent from the integrated undertaking, with respect to assets necessary to operate, maintain or develop the electricity transmission and distribution network.

This should not prevent the existence of appropriate coordination mechanisms to ensure that the economic and management supervision rights of the undertaking in respect of a subsidiary are protected. In particular, this shall enable the undertaking to approve the annual financial plan, or any equivalent instrument of the subsidiary and to set global limits on its levels of indebtedness.

By no means shall the undertaking give instructions to subsidiaries engaged in regulated activities regarding day-to-day operations, nor with respect to individual decisions concerning the construction or upgrading of the transmission and distribution

facilities, that do not exceed the terms of the approved financial plan, or any equivalent instrument.

d) Companies engaged in regulated activities shall establish an internal code of conduct, which sets out measures taken to ensure that the objectives set out in the previous paragraphs a), b) and c) are met.

The internal code of conduct shall set out the specific obligations of employees to meet this objective and the undertaking shall ensure its compliance.

An annual report, setting out the measures taken, shall be submitted by the person or body responsible for monitoring to the Ministry of Industry, Tourism and Trade and to the National Energy Commission, and shall be published.

3. Companies that engage in regulated activities may take holdings in other companies that perform activities in economic sectors other than the electricity sector, provided they obtain authorization as per the Eleventh Additional Provision, Third, 1, of the Hydrocarbons Act.

In accordance with the 9th Transitory Provision of the Spanish Electric Power Act 54/1997, REE has been appointed as System Operator and Manager of the Transmission Network.

REE is the owner of almost the entire electricity transmission network in Spain mainland. In 2002 REE embarked upon the acquisition of the whole transmission network, which was owned by the Spanish distributors. In 2003 REE acquired the transmission assets of ENDESA DISTRIBUCION ELECTRICA and UNION FENOSA DISTRIBUCION, and a 25% of the share capital of the company which owned the transmission assets of IBERDROLA DISTRIBUCION ELECTRICA.

In February 2005, REE reached an agreement for the acquisition of the remaining 75% of the share capital of the company which owned the transmission assets of IBERDROLA DISTRIBUCION ELECTRICA.

Finally, in 2005 VIESGO sold its transmission assets to REE.

Through the above described purchasing process, REE owns, currently, 99% of the transmission grid in the Peninsula, since only the purchase of Hidrocantábrico's

transmission assets that will be most likely completed before the year ends, is still pending.

Clear benefits are derived for both the electricity industry and end consumers from this process, which is basically striving for quality improvement and supply reliability.

In 2005 there were 325 distributors registered in the Ministry of Industry, Tourism and Trade. The main 5 distribution companies are: ENDESA DISTRIBUCIÓN ELÉCTRICA, S.L.U., IBERDROLA DISTRIBUCIÓN ELÉCTRICA, S.A., UNIÓN FENOSA DISTRIBUCIÓN, S.A., HIDROCANTÁBRICO DISTRIBUCIÓN ELÉCTRICA, S.A.U. (95,7% owned by EDP) and ELECTRA DE VIESGO DISTRIBUCIÓN, S.L.U. (100% owned by ENEL). The rest of the companies are small distributors which mainly operate in small municipalities and medium-sized towns. Approximately 19 of them are cooperatives.

With respect to the ownership structure of TSOs and DSOs:

- REE is the main TSO and owns 99% of the transmission network.

Pursuant to the terms of Royal Decree 377/1991 dated March 15 regarding reporting of significant share ownership in corporations listed and purchase of treasury stock, as the closing date of the 2004 financial year the State Industrial Ownership Corporation (SEPI) was the direct owner of a significant share of the corporation, owning 38,551,950 shares representing 28.5% of the capital.

No other individual or entity exercises or has the power to exercise control of the corporation, as described in article 4 of the Stock Exchange Law" (Chapter A.7 of the Corporate Governance Report 2004)

The recent approval of Royal Decree Law 5/2005 dated March 11, on urgent reforms to drive productivity and improve public procurement (B.O.E.nº 62 dated March 14), hereinafter the RDL, has introduced in its Title II (Energy Markets) a set of reforms that include, among other things, amendments to Spanish Electric Power Act 54/1997 dated November 27 (LSE).

Among the amendments, the article 23 of the RDL establishes new maximum limits on share ownership in REE. As stated in paragraph III of the Statement of Reasons for the RDL, the purpose of that modification is to guarantee REE's independence from companies developing activities en the electrical sector that are freed from restrictions.

The mentioned 23 article modified paragraph 1 of article 34 of the LSE, establishing that for companies operating in the electrical sector and individuals or legal entities with a direct or indirect participation of over five per cent in the capital of such entities, the maximum percentage of share participation in REE's share capital can only be one per cent (1%). For any other shareholders, both individuals and other legal entities, the RDL kept the maximum share ownership, both direct and indirect, at three per cent (3%) of corporate capital, set in Law 53/2002 dated December 30 regarding Fiscal, Administrative and Corporate Measures. The RDL maintains the special regimen for the State Association of Industrial Participations (SEPI), which must maintain, in any case, a minimum participation of ten per cent (10%).

The RDL maintained the prohibition on syndicating shares existing under the foregoing regimen, and also re-established the joint limit of forty per cent (40%) for shareholdings of shareholders carrying out activities in the electricity sector, as set forth in the first draft of the Spanish Electric Power Act. The RDL also established that voting rights corresponding to shares surpassing the legally established maximum limits would be held in abeyance as of the date when the RDL entered into effect - on March15, 2005.

In order to comply with Royal Decree 5/2005, REE shareholders have changed their participation percentages in the company. On 29 September 2005, the SEPI communicated to the National Stock Market Commission the sale of 8,5 % of the share capital of REE, reducing its participation to 20%. The REE shareholders structure at 31st December 2005 is shown in the following table:

THE MOST SIGNIFICANT HOLDINGS IN THE SHARE CAPITAL OF REE, S.A.	SHAREHOLDING %
SOCIEDAD ESTATAL DE PARTICIPACIONES INDUSTRIALES (SEPI)	20,0
ENDESA, S.A.	3,0
IBERDROLA, S.A.	3,0
UNIÓN FENOSA DISTRIBUCIÓN, S.A.	3,0
HIDROELÉCTRICA DEL CANTÁBRICO, S.A.	3,0
ELECTRA DE VIESGO DISTRIBUCIÓN, S.L.	1,0
FREE FLOAT	67,0

Source: CNMV and Annual Report of REE

- DSOs:

In fulfilment of the requirement of legal unbundling of activites, the corporate groups and small distributors have carried out a corporate reorganisation so that the group companies devoted to the distribution activitiy only conduct this regulated activity, although the may hold a participation in the share capital of companies which carry out non-regulated activities.

There are 5 main distribution companies, which are part of the five main electricity groups: ENDESA GROUP, IBERDROLA GROUP, UNION FENOSA GROUP, HIDROCANTÁBRICO GROUP and VIESGO-ENEL GROUP.

ENDESA DISTRIBUCIÓN ELÉCTRICA, S.L.U., IBERDROLA DISTRIBUCIÓN ELÉCTRICA, S.A.U., UNIÓN FENOSA DISTRIBUCIÓN, S.A. and HIDROCANTÁBRICO DISTRIBUCIÓN ELÉCTRICA, S.A.U. are 100 % owned by parent companies of their respective groups: ENDESA, SA., IBERDROLA S.A., UNIÓN FENOSA, S.A. and HIDROCANTÁBRICO, S.A.

The main shareholders of these parent companies are as follows:

THE MOST SIGNIFICANT HOLDINGS IN THE SHARE CAPITAL OF ENDESA, S.A.	SHAREHOLDING %
CAJA DE AHORROS Y MONTE DE PIEDAD DE MADRID	9,936
CHASE NOMINEES LTD	5,732
AXA, S.A.	5,350
STATE STREET BANK AND TRUST CO	5,038

Source: CNMV at 12th July 2006

THE MOST SIGNIFICANT HOLDINGS IN THE SHARE CAPITAL OF IBERDROLA, S.A.	SHAREHOLDING %
CHASE NOMINEES LTD	8,359
STATE STREET BANK AND TRUST CO	5,929
BANCO BILBAO VIZCAYA ARGENTARIA, S.A. (BBVA)	5,460
BILBAO BIZKAIA KUTXA, AURREZKI KUTXA ETA BAHITETXEA	5,010

Source: CNMV at 12th July 2006

THE MOST SIGNIFICANT HOLDINGS IN THE SHARE CAPITAL OF UNIÓN FENOSA, S.A.	SHAREHOLDING %
ACS, ACTIVIDADES DE CONSTRUCCIÓN Y SERVICIOS, S.A.	34,506
CORPORACIÓN CAIXA GALICIA, S.A.	9,993
CAJA DE AHORROS DE GALICIA	9,988
JOVE CAPELLAN, MANUEL	5,151

Source: CNMV at 12th July 2006

EDP is HIDROCANTÁBRICO's main shareholder, with 95.7% of its share capital.

ELECTRA DE VIESGO DISTRIBUCIÓN, S.L.U. is 100% owned by ENEL

Does your country apply the 100.000 customer rule?

The Spanish Electric Power Act requires the unbundling of the regulated activities, no matter the number of customers that each distributor may have.

How many DSOs are there with less than 100.000 customers?

No information is available.

Number of legally separated DSOs that own assets

Number of legally separated DSOs that do not own assets

In Spain distributors own the assets necessary to carry out their activities.

Furthermore the "Anteproyecto de Ley" will amend article 39, section 1, of the Spanish Electric Power Act whereby distributors will be defined as follows:

"Distribution companies will manage the distribution networks they own […]"

Number of employees of the network company

The following table shows the figures for the main companies:

Number of employees at 31/12/2005 of main DSOs and TSO		
ENDESA DISTRIBUCIÓN ELÉCTRICA, S.L.U.	DSO	5.415
IBERDROLA DISTRIBUCIÓN ELÉCTRICA, S.A.	DSO	4.126
UNIÓN FENOSA DISTRIBUCIÓN, S.A.	DSO	2.441
HIDROCANTÁBRICO DISTRIBUCIÓN ELÉCTRICA, S.A.U.	DSO	404
ELECTRA DE VIESGO DISTRIBUCIÓN,S L.U.	DSO	1.596
RED ELÉCTRICA DE ESPAÑA, S.A.	TSO	1.254
TOTAL EMPLOYEES		**15.236**

Source: Circular 4/1998 of CNE

Share of shared services

Share of shared employees

No information is available.

Whether the TSOs and typically DSOs are located separately from both the production and supply firms

As already indicated REE, which is the main TSO, carries out transmission activities and does not engage in production or trading activities.

However, DSOs are usually part of vertical undertakings that carry out various activities. In most cases, they have the same registered office as the parent company and other subsidiaries. The Spanish regulation does not impose any obligation to keep separate registered offices. Therefore vertical undertakings follow business efficiency criteria and take advantage of centralised services.

The extent to which the TSOs and DSOs present themselves to customers as separate entities: name of company, logos, websites, etc.

The unbundling of activities required by Law means that regulated and non-regulated activities have to be carried out by different subsidiaries, although both types of activity can be conducted within the same business group.

Although the legal unbundling is effective in Spain, companies belonging to vertical undertakings share the same group logo, website, publicity campaigns, customer care telephone lines, etc., so as to maintain the corporate image, regardless of the activity, particularly now that electricity operators also conduct activities in the gas and other non-energy related markets. In this way, the vertical undertakings may enjoy the benefits associated with the use of the trademark´s image, presence-based and virtual sales channels, customer relationship management and advisory services.

Whether unbundled accounts are published or not for both TSOs and DSOs.

Whether the unbundled accounts are the subject of a separate audit from a certified accountant and the extent to which this audit is addressed to the requirements of the regulator

The Spanish Electric Power Act establishes (article 20) that entities engaged in one or more activities in the electricity sector shall conduct their accounting in accordance with Chapter VII of the Law on Limited Liability Companies, even if such companies are not

limited liability companies. Those companies whose corporate purpose is to conduct regulated activities must keep separate accounts, differentiating between the revenues and costs that are strictly attributable to the transmission activity, those attributable to the distribution activity and, when applicable, those corresponding to trading activities and tariff-based sales to customers.

It also establishes that companies which conduct non-regulated electricity-related activities shall keep separate accounts for their production and trading activities, for their non-electricity related activities conducted in Spain and for all their foreign activities.

Undertakings must explain in the annual report the criteria for the allocation of assets and liabilities, expenditures and incomes.

The companies must submit to the Authority any information requirements specially […], on their annual accounts, which must be audited according to the Law and shall in particular make sure that the obligation to avoid discrimination and cross-subsidies is respected[2].

In case of vertical undertakings, the obligation to inform shall also apply to the parent company, if it carries out operations in any energy sector, and to other group companies that are engaged in operations with the regulated subsidiary.

In addition to the rules included in article 20 of the Spanish Electric Power Act, the Royal Decree 437/1998 of 20th March, by virtue of which rules for the adaptation of Spain´s Accounting System (PGC) to companies in the electricity sector were approved, incorporates specific rules on public information separated by activities. It lays down that the consolidated accounts of groups comprising one or several companies carrying out electricity-related activities must incorporate the specific information which is regulated in the aforesaid Royal Decree relating to the unbundling of activities included in the Report, following the legal principles established in the Spanish Electric Power Act.

Thus, business groups operating in the electricity sector which conduct regulated activities publish their consolidated annual accounts with information separated by activities, as established in the Accounting System adapted to the electricity sector. Of the major

[2] The “Anteproyecto de Ley” amends article 20 so as to adapt it to Directive 2003/54/EC in relationship with cross subsidisation and distortion of competition.

electricity groups operating in Spain, ENDESA, IBERDROLA, UNION FENOSA and HIDROCANTÁBRICO publish their consolidated information separated by activities.

As far as VIESGO-ENEL GROUP is concerned, the companies involved do not prepare consolidated accounts in Spain because they are 100% owned by the Italian ENEL.

The REE GROUP also prepares consolidated accounts separated by activities and these are published in its annual report.

The public legal information relating to individual companies is not broken down by activities. Independent distributors, which do not prepare consolidated annual accounts, do not provide information broken down by activities.

Companies are audited by independent companies according to the existing auditing regulation. In addition, the regulator has a department that performs inspections in companies to verify the veracity of the information provided, whether financial or technical in nature, in so far as it is of concern to the regulator (measuring equipment, etc).

Whether the regulator sets detailed rules or guidelines on the compilation of unbundled accounts (for example relating to cost allocation), and the consequences of infringements of these guidelines.

What sanctions are available to regulators for the companies failing to comply with management or accounts unbundling requirements?

CNE is preparing a new regulatory model for electricity distribution activity. This model is based on management accounting that CNE calls “regulatory accounting”. Rules and guidelines information for regulatory accounting was published on 16th February of 2006 in Circular 1/2006. However, this type of information is mandatory only for electricity distribution companies. Currently, DSOs are sending regulatory information for the first regulatory period.

As mentioned before, business groups operating in the electricity sector which conduct regulated activities publish their consolidated annual accounts with information separated by activities, as established in the Accounting System adapted to the electricity sector. The CNE does not issue any rules, guidelines or references with respect to the preparation of unbundled accounts.

The CNE receives regular accounting and economic-financial information, which is required for performing the functions allocated to the regulator, by virtue of Circular 4/1998 of 10th November. Nevertheless, pursuant to the provisions of Royal Decree 437/1998, most part of the information requested in the above-mentioned Circular is public. The information requested in the Circular has been adapted to such Royal Decree and incorporates only minimum additional information. The CNE does not establish any rules or criteria with respect to the allocation of items by activities or the preparation of accounts broken down by activities.

The Circular establishes that the information must be presented separately for the following activities: generation, transmission, distribution, trading, non-electric activities, activities carried out abroad and sales to tariff-based customers.

Furthermore, the “Anteproyecto de Ley” amends article 3 of the Spanish Electric Power Act and assigns specifically to the CNE the function of verifying the effective unbundling of accounts.

Failure to make available to the CNE the information requested in the aforesaid Circular, when this is not merely occasional or an isolated case, may be penalised as a very serious offence, whereas the occasional or isolated failure to do so constitutes a serious offence, as per the provisions of the Spanish Electric Power Act.

Apart from what has been indicated above on the obligation to submit information to the CNE, the Spanish Electric Power Act specifies the actions and omissions which constitute administrative offences.

Thus, the performance of activities which as per the provisions of the Law are incompatible, i.e. non-fulfilment of the obligation of juridical unbundling of activities, is treated as a very serious offence.

As regards competencies to impose penalties, within the scope of the General State Administration, penalties for very serious offences will be imposed by the Council of Ministers and penalties for serious offences by the Ministry of Industry, Tourism and Trade. The application of penalties for minor offences will correspond to the Director General of Energy. Within the scope of the Autonomous Regions, the provisions of their own rules and regulations shall apply.

The role of the compliance officer in this process

Since the start of the unbundling of activities, documentation to support the incorporation of new companies whose sole corporate purpose is the regulated activity is being checked, and the CNE, in the performance of its duties, authorizes the implementation of corporate transactions designed to make the legal unbundling effective.

3.2 COMPETITION ISSUES [ARTICLE 23(8) AND 23(1)(H)]

3.2.1 Description of the wholesale market

A description of the structure of the generation and wholesale market should be provided with the following indicators covered:

− size of the relevant national market in terms of total consumption (TWh) and peak load (GW)

− Maximum net generating capacity (GW)

− The number of companies estimated to have at least a 5% of the installed capacity

− The proportion of installed capacity owned by the largest three companies

− A description of the market structure at a different pointsin the merit order (e.g. base load, mid merit, peak plant)

- HHI by volume and capacity

− A description of the market for ancillary services (e.g. frequency of response), including as far as possible each companies' shares of ancillary services traded (ideally by volume and value) or a concentration index such as HHI

− the volume of electricity traded:

- ***On the basis of standardised power exchange products***
- ***In bilateral "over the counter" traing for products covering 1-5 years***
- ***In longer-term contracts between producers and suppliers***

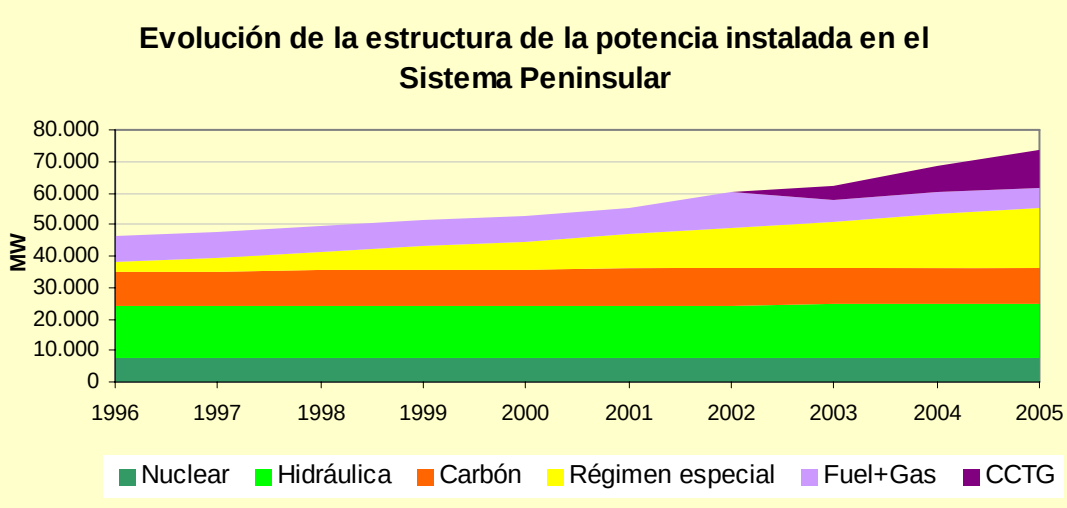
− The existence of active demand side participation in the wholesale market (in volume) should be reported

The report should also examine the degree of integration with neighbouring Member States and assess the extend to which the market is national, sub-national or extending beyond national boundaries? Price correlation and trade volumes should be used as indicators.

A summary of information about recent mergers and acquisitions in the sector assessment of its impact on competition should be provided

Structure of Spain's Electricity System

Spain's generation equipment has a structure based on highly diversified technologies, encompassing nuclear, coal-fired (Spanish and imported coal), fuel oil, conventional cycle fuel oil and gas, combined cycle gas and hydraulic (conventional and pumping) plants and producers under the special regime (wind, photovoltaic, biomass, etc.). With the introduction of liberalisation in the electricity market in 1998, the demand increase in Spain's electricity system was accompanied by an increase in production under the special regime, the output of which has seen an increase between the years 1998 and 2005 in the region of 209%. As from the year 2002, the first combined cycles were commissioned, resulting in an increase in the installed capacity under the ordinary regime of 6% with respect to 2001, with a further increase of 8% at the end of 2004. The following graph shows the evolution of installed power under the ordinary regime, segregated by technology, from 1996 up to the end of 2005.



At the end of 2005, the installed power structure in the Spanish electricity system by production technologies was as follows:

Technology	Power (MW)
CCTG (combined cycle)	12.258
Fuel+Gas (conventional	6.647
Coal	11.565
Nuclear	7.876
Hydraulic	16.657
Special Regime	18.892
TOTAL	73.895

At 31st December 2005, the shares of the different companies in the Spanish electricity system's generator pool were as shown on the attached table. The power per company taken into consideration includes the production plants under the ordinary regime and the installed power under the special regime (without differentiating the company owning such plants) in operation at 31st December 2005. The properties of the special regime are considered in the calculations of the HHI index.

Market Shares in Net Power (Year 2005)

Net Power Share	Ordinary Regime + Special Regime	HHI
IBERDROLA GENERACION, S.A	27,7%	1814
ENDESA GENERACIÓN, S.A	24,7%	
UNION FENOSA GENERACIÓN, S.A	9,7%	
HIDROELÉCTRICA DEL CANTÁBRICO, S.A	3,6%	
VIESGO GENERACIÓN, S.L.	3,2%	
GAS NATURAL SDG, S.A	2,8%	
OTROS	3,0%	
Régimen Especial Total	25,4%	

* Note: Companies under the ordinary regime are not allocated the power of the plants under the special regime which are their property

As can be seen on the above table, the number of companies with more than 5% of the Spanish electricity system's installed power is 3, being Iberdrola, Endesa and Unión Fenosa.

At the same time, the evolution of total demand in plant bars in Spain between the years 1998 and 2005 was 42%, representing a mean annual increase in this same period of 6%. During the last year, the total demand in plant bars amounted to 245,434 GWh, which was covered as follows:

Balance of Spanish Electric Energy in TWh in 2005	
Hydroelectric	19,442
Nuclear	57,539
Coal	77,795
Fuel+Gas (conventional cycle)	9,848
Gas (combined cycle)	48,098
Special Regime	50,124
International exchanges	-1,355
Consumption in generation	-9,597
Consumption in pumping	-6,459
TOTAL (TWh)	245,434

During this same year 2005, 27th January was the day on which the greatest demand for mean hourly power was recorded, with a value of 43.378 GW. The maximum daily energy value occurred on the same day and amounted to 870 GWh.

Structure of the Production Market

As a result of the merger and acquisition transactions carried out in the nineties, the electric energy production market in Spain started to function with four large electricity groups: Endesa, Iberdrola, Unión Fenosa and Hidrocantábrico. Subsequently, and since its beginning up to the present day, attempts have been made for the merger or for the acquisition of two important companies which finally did not take place. Actually there is an acquisition process open, it involves Endesa, Gas Natural and E.On, we do not know still the result of it .However, other projects of minor importance have been brought to a positive conclusion, as is the case of the purchase of assets belonging to Endesa by part of the Italian ENEL group and the acquisition by EDP of Hidrocantábrico. At present there are six groups of a significant size competing in the market, which are Endesa, Iberdrola, Unión Fenosa, Gas Natural, Hidrocantábrico and Viesgo, the market shares of which will be seen below.

Electricity Power Act 54/1997 of 27th November establishes that the production market is to be managed by two Operators: the Market Operator ("Operador del Mercado Español de Electricidad, S.A.) – OMEL), which is responsible for the market's economic

management, and the System Operator (Red Eléctrica de España – REE), which is responsible for its technical management. In Royal Decree-Law 5/2005 of 11th March of urgent measures for boosting productivity and improving public contracting, a series of reforms within the field of energy were regulated, modifying part of the functions which up until then had been carried out by each operator and attributing to the System Operator the balancing markets' economic management.

Sellers in the market are the electricity producers (generator companies), external agents (electricity imports) and supplier companies (electricity imports and energy from bilateral contracts); buyers in the market are the distributors (tariff-based supply), supplier companies (sale to qualified consumers), external agents (electricity exports) and the qualified consumers themselves.

The producers, external agents, qualified consumers and, since the publication of Royal Decree-Law 6/2000, the supplier companies too, can choose between going to the organized market, presenting economic offers or signing and implementing physical bilateral contracts.

The production market in Spain is made up of an organized part and a non-organized part. The organized market is structured around a series of sessions held on the day prior to and on the day of the electric energy supply, in which the final generation price's different components and the programming of the generator groups are established. The non-organized part consists of physical bilateral contracts, the economic terms and conditions of which are agreed between the signing parties and are not known by this Commission but whose execution has to be notified to the Market Operator, meaning that the negotiated quantities are known. During 2005 bilateral contracts corresponding to a volume of energy of 10,452 GWh, representing 4.5% of the market's total volume, were executed.

An energy volume of 230,731 GWh, representing approximately 94% of the plant bar demand for electricity in Spain, has been negotiated in the production market. The final average market price was 6.242 c€/kWh. The daily market price has represented in the region of 89% of the final price, the power guarantee in the region of 0.07%, with the solution to technical restrictions, the secondary regulation tranche and other technical operation processes account for the remaining 11%.

Based on the same hypotheses as those used above in power, the energy market shares are analysed below:

Market Shares in Energy	Ordinary Regime + Special Regime	HHI
IBERDROLA GENERACION, S.A	21,6%	1854
ENDESA GENERACIÓN, S.A	31,5%	
UNION FENOSA GENERACIÓN, S.A	11,2%	
HIDROELÉCTRICA DEL CANTÁBRICO, S.A	6,1%	
VIESGO GENERACIÓN, S.L.	3,0%	
GAS NATURAL SDG, S.A	3,1%	
OTROS	3,7%	
Régimen Especial Total	19,9%	

* Note: Companies under the ordinary regime are not allocated the energy of the plants under the special regime of which they are the owners

There are 4 companies with market shares in excess of 5%.

For each hour of the daily programming horizon, the Market Operator establishes the order of economic precedence of the sales offers, starting with the cheapest and going up to the most expensive that is necessary for meeting the electric energy demand in this hourly programming period. The entry into operation of the power plants occurs on the basis of their variable cost; thus, the first units to enter into operation are those which do not have the capacity or have only limited capacity to modify their dispatches and low fuel costs, as is the case of hydroelectric and mini-hydroelectric flow plants, nuclear power plants and wind farms. Coal-fired and combined cycle powerplants enter into operation in second place and the dispatch of units with the most expensive fuels, such as fuel+gas plants and hydroelectric plants with modulation capacity, takes place last. Co-generation plants are dispatched on the basis of their variable production costs and the conditioning factors of the production processes with which they are associated. Thus, in general terms, the coverage of demand in the system follows the order of economic precedence determined by fuel costs. Consequently, the order in which the plants enter into operation is covered as follows:

Hydraulic Flow and Nuclear, Co-generation and other Renewable Fuels	→	Basic Energy
Coal and Combined Cycle	→	Intermediate Energy
Modulated Hydroelectric and Fuel+Gas	→	Peak Energy

At the same time, competitive markets managed by the System Operator exist within the organized production market in Spain; these are the markets which correspond to the system's technical operation processes (balancing markets), the aim of which is to guarantee the electricity generation and transport system's reliability and security.

Three types of regulation reserve have been defined in the Spanish market: primary reserve, secondary reserve and tertiary reserve.

Primary regulation has been established as a complementary service to the system, which is obligatory and not remunerated and, consequently, there is no market.

As already indicated above, the rendering of the secondary regulation service has been broken down into regulation zones, which group together several generation units within the same automatic generation control system. This service's contracting process consists of two phases: provisioning of the regulation tranche made on the day prior to the system's real explotation and this regulation tranche's use in real time. The System Operator establishes the regulation tranche that needs to be maintained in each one of the 24 hours of the following day, using as criteria possible errors in forecast demand, the size of the programmed groups and their fault rates, and the programmed power's hourly variation. The market agents whose units have the technical capacity to provide this service submit their offers indicating, per production unit, the offer of increase or decrease in power together with the price at which they are prepared to provide this tranche. Tranche allocation to the different units is based on economic criteria and is remunerated at the highest price of all the offers accepted in the auction. At the same time and, in this case, during exploitation in real time, the energy that is needed to cover positive and negative system deviations is remunerated at the marginal hourly price, which is calculated as the price which would have resulted for the equivalent tertiary energy which ideally it would have been able to replace (tertiary energy marginal price).

The tertiary regulation reserve's function is to maintain the balance of generation-demand when faced with unscheduled variations in demand or faults in the generator equipment. Its use in time is situated after the use of the primary and secondary reserves and it can be provided by those groups which can vary their power with respect to the allocated generating programme in a maximum time of 15 minutes and that can be maintained for at least 2 consecutive hours. There is no payment per tranche in the tertiary regulation

market, with only the reserve's use being remunerated. The System Operator establishes the value of the minimum tertiary regulation reserve which must exist in the system so that it can simultaneously withstand faults in any generator unit and errors in forecast demand. The agents whose units have the technical capacity to provide this service have the obligation of submitting hourly regulation tranche offers to cover possible positive (increase) or negative (decrease) deviations. If the deviation is positive, the System Operator will give the order to increase the scheduled power in the units which have submitted offers to increase, starting with the cheapest, until the detected deviation has been covered. At the end of the hour, the price at which all the tertiary energy used is to be remunerated is set at the price of the most expensive offer which has had to be used within that hour. In the case of negative deviations, the System Operator issues the order to reduce the power with respect to the programme in the units which have submitted offers to decrease, with the price being the lowest (energy buyback price) of those of the offers which have been used (allocation in descending order of price).

Finally, and in the event that important deviations are detected between the forecast demand and scheduled generation between two intra-daily market sessions, the System Operator may have recourse to the deviation management procedure, with a market mechanism similar to that of the tertiary reserve.

The HHI concentration indices for these markets are analysed below, using for the purpose the following criteria:

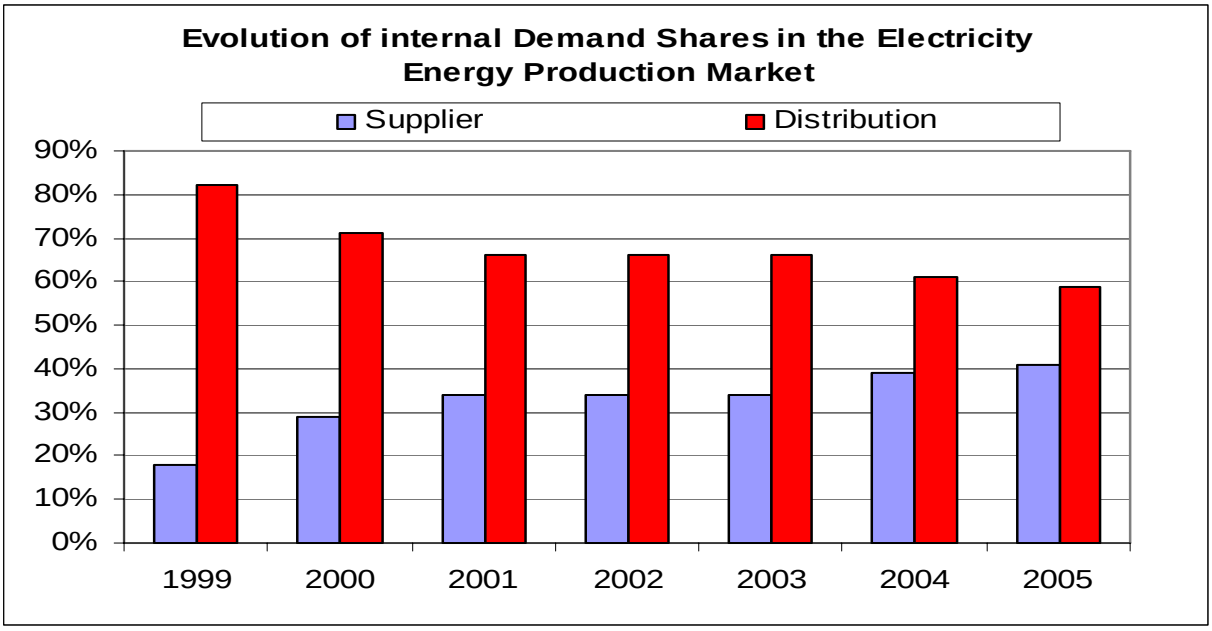
- Secondary regulation HHI: share per agent calculated on the basis of the annual tranche allocation average, both to increase and to decrease. In this case the allocated energy is not used because, as has already been seen, it is remunerated at the tertiary regulation market's marginal price. Data for the year 2005
- Tertiary regulation and deviation management HHI: share per agent calculated on the basis of the use of energy without a sign (both to increase and to decrease) in both markets. Data for the year 2005

	Share	Secondary HHI
Endesa	34,4%	2611,3
Iberdrola	30,9%	
Unión Fenosa	19,3%	
Hidrocantábrico	8,9%	
Gas Natural	3,5%	
Viesgo	3,0%	

	Tertiary Regulation Energy		Deviation Management Energy				
	To decrease (MWh)	To increase (MWh)	To decrease (MWh)	To increase (MWh)	Total	Share	HHI
Iberdrola	563.992	893.339	200.747	293.339	1.951.416	35,1%	2551
Endesa	540.503	738.307	161.716	307.598	1.748.125	31,4%	
Unión Fenosa	294.598	405.093	72.408	105.492	877.591	15,8%	
Viesgo	148.927	135.173	43.146	49.166	376.412	6,8%	
Hidrocantábrico	76.474	71.106	17.357	26.096	191.033	3,4%	
Gas Natural	144.566	69.877	29.616	23.268	267.328	4,8%	
Otros	47.741	81.470	8.079	12.348	149.638	2,7%	
Suma	1.816.802	2.394.365	533.069	817.307	5.561.543		

From the demand-side point of view, the existence of active demand in the electric energy production market has been very much conditioned by potential eligibility levels in each one of the years and the existence of the regulated tariff which coexists with the free market.

The evolution in the access to the internal demand market can be seen on the following graph.

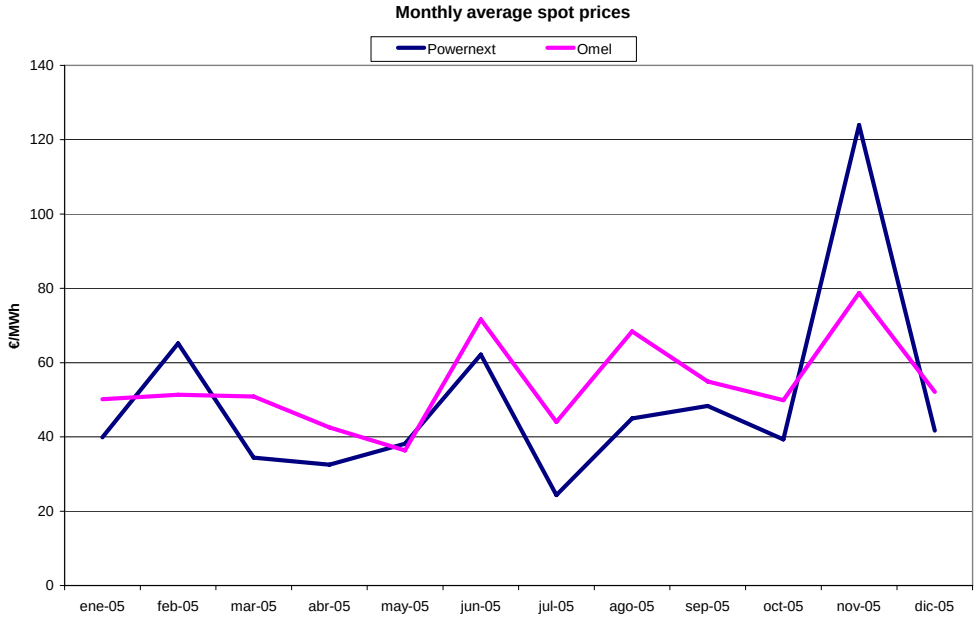


* Note: Sales of energy from producers under the special regime which sell to distributors outside the market have not been taken into account, meaning that the distribution quota would be a little higher than that shown.

During 2005, trade volumes exchanged with neighbouring member states represented about 7,64% of the energy in the wholesale market. The amount of energy exchange in each border is showed below:

	Portugal	France	Andorra	Morocco	TOTAL
Import (MWh)	717.507	7.319.034		51.227	**8.087.768**
Export (MWh)	7.659.220	775.600	278.787	848.118	**9.561.727**
TOTAL	**8.376.727**	**8.094.634**	**278.787**	**899.345**	**17.649.495**

Considering Spanish neighbour countries only in France there is a spot market, Powernext, the average price is showed below:



Base load prices (€/MWh)

Fecha	Powernext	OMEL	Correlation index
ene-05	31,46	42,69	0,58
feb-05	40,21	46,69	0,72
mar-05	50,34	53,81	0,80
abr-05	40,26	43,96	0,64
may-05	36,29	45,05	0,79
jun-05	45,89	60,57	0,88
jul-05	45,61	64,40	0,63
ago-05	35,88	51,16	0,71
sep-05	46,14	56,71	0,44
oct-05	46,47	51,68	0,67
nov-05	68,19	57,52	0,83
dic-05	73,14	69,35	0,68
Total	**46,66**	**53,63**	**0,75**

Omel and Powernext price index correlation during 2005 is determined as 0,7525 considering average prices, but bigger differences between peak and off-peak hour prices were observed.

Not only prices but also interconnection capacity determines in each period trade volumes. Congestion usually exists, this means that there is coordination between markets but not integration.

3.2.2 Description of the Retail Market.

A description of the retail supply market to end-users should set out the most recent information on the main players and their market shares in

- ***The households and small commercial sector (e.g. 50MWh/year or less)***
- ***In the medium sized industrial and commercial sector (e.g. up to 2GWh/year)***
- ***Large and very large industrial consumers (more than 2GWh/year)***

Definitions of consumers groups can alternatively reflect typical national delineations.

The number of active companies with a market share of above 5% and the share of the top three supplier in each segment of the market should be identified and the

penetration of new non-national companies assessed including the extend to wich this is throughеither organic growth or through acquisition.

The report should also set out the extend of integration between electricity generators and suppliers in the market.

The report should identify the number of suppliers without any affiliate connection to either TSOs oe DSOs in the Member State concerned that have enteres the market since the introduction of competition.

Estimates of customers switching and/or renegotiating for each specified segment of the market should be provided both for the most recent 12 month period and also cumulatively since the opening of the market.

The report sholud also include information about switching procedures that are into force (maximum delay to switch, switching rate, charges, etc.).

Also include information on current retail price levels (with refernce to Eurostat data as appropiate) for the customer types referred to in 3.1.3. Provide an estimated split into
1. network charges
2. levies
3. energy price(=total minus 1 minus 2 minus 4)
4. taxes

Please describe whether the data refers to prices determined in the market, or wether they consist of regulated end-users tariffs

As already indicated, in connection with the hiring of energy, the existing regulations allow qualified consumers to choose from amongst a range of possibilities. Basically, these can be classified as follows:

- To exercise their condition of qualified consumer. For this they can acquire all the energy in the market, negotiate it through other hiring modalities or through a combination of different energy hiring modalities. This can be materialised in the following manner:

  - Through a supplier company (the most common way)
  - By them direct in the market, making the corresponding offers to the Market Operator

  There are other possibilities, which do not normally arise, such as purchasing energy by signing a bilateral agreement with a producer or through an external agent.

- To remain tariff-based.

All the information on the situation in the market and tariffs as regards number of customers and consumption, which is analysed in the following sections, corresponds to the information that is made available to this Commission every six months by the five major distribution companies and which reflects the situation of customers in the market and tariffs on two specific dates of the year (30th June and 31st December) and includes information on the energy consumed by these consumers during the last calendar year as at the corresponding date. Consequently, the data provided reflect neither the number of times a consumer has changed throughout the year nor the accumulated number of changes since the deregulation of each tranche analysed. The most up-to-date information available as at the date of this report's preparation corresponds to the situation of customers in the market and at tariff as at 31st December 2005; therefore, all the data on customer loyalty and capture relate to that date, where 'loyal' is deemed to be the number of consumers (or, when applicable, the associated volume of energy) which have renegotiated their contracts with the supplier company in the same business group as the distributor which makes the supply and 'captured' the number of consumers which have changed supplier (or, when applicable, the associated volume of energy). In addition, this information is sent aggregated by type of consumer.

In order to analyse the market shares as regards both number of customers and energy and with three categories were considered:

- Large industry: Very large and large consumers connected in High Voltage with consumption in excess of 750 MWh/year
- Medium size industry: All other High Voltage consumers with consumption below 750 MWh/year
- Small industry and households: Consumers connected in Low Voltage with a hired power in excess of 15 kW (businesses, small companies and domestic consumers)

Percentage of Energy Volume involved in the Change of Supplier (with the Supplier Company from a different business group to that of the Distributor)

Number of eligible meter point. Data 31/12/2005

	TOTAL	Switching	Switching rate	re-negotiating	re-negotiating rate
large industry	12.688	6.686	53%	9.697	76%
medium sized industry	82.750	14.646	18%	20.580	25%
small industry and households	25.366.953	1.882.368	7%	2.538.227	10%
	25.462.391	**1.903.701**	**7%**	**2.568.503**	**10%**

By Volume. Data 31/12/2005

	TOTAL	Switching	Switching rate	re-negotiating	re-negotiating rate
large industry	102.707.522	32.600.154	32%	50.111.281	49%
medium sized industry	22.725.104	7.130.791	31%	10.126.516	45%
small industry and households	115.807.592	14.870.338	13%	20.275.148	18%
	241.240.219	**54.601.283**	**23%**	**80.512.944**	**33%**

During the year 2005, 31 supplier companies made purchases in the market with market shares as per the table shown below. The companies with the largest market shares are those which belong to the large electricity business groups, i.e. Endesa, Iberdrola and Unión Fenosa, whose market shares add up to 82%. In general, the way in which all the other supplier companies have entered the market has been through organic growth, without being associated with any distribution company, with the exception of Hidrocantábrico, in which the Portuguese EDP holds 96% of its corporate capital, and

Viesgo, which was acquired by the Italian ENEL. At the same time, the company Gas Natural is the largest Spanish business group as regards sales and distribution in the gas sector in Spain. It started to operate in the electricity market in the year 2000 in the supplier business, taking advantage of its gas sales commercial infrastructure, and in the year 2002 in the production business with the installation of combined cycles (it currently has 7 combined cycles with a total installed power of 2800 MW).

Supplier company	Share 2005
ENDESA ENERGÍA	36,06%
IBERDROLA COM.	33,25%
UNION FENOSA MULTISERVICIOS	12,71%
GAS NATURAL ELECTRICIDAD	7,36%
HIDROCANTABRICO ENERGÍA	5,46%
VIESGO ENERGÍA COMERCIALIZACIÓN	1,55%
EDP ENERGÍA IBÉRICA, S.A.	0,56%
HISPAELEC COMERCIALIZADORA FRANCIA	0,51%
NATURGAS COMERCIALIZADORA S.A.	0,50%
NEXUS ENERGIA S.A.	0,48%
VIESGO COMERCIALIZACIÓN	0,40%
ENERGY FACTORY GROUP	0,34%
DETISA COMERCIALIZADOR S.A	0,29%
CENTRICA ENERGIA COM (ESP)	0,21%
CYD ENERGIA S.A	0,16%
CANAL ENERGIA COMERCIALIZACION S.L.	0,14%
BARCLAYS BANK PLC	0,09%
SALTEA COMERCIAL, S.L.	0,08%
ELEKTRIZIACTS GESELLSHAFF LAUFENBURG ESPAÑA	0,04%
GAS NATURAL COMERCIALIZADORA	0,03%
ELECTRA CALDENSE ENERGÍA	0,02%
SNIACE ENERGIA	0,01%
ELECTRA NORTE 1997 S.A.	0,01%
BP AMOCO	0,005%
WIND TO MARKET	0,005%
ENERCO CUELLAR S.L	0,003%
ELECTRABEL ESPAÑA	0,003%
GLOBAL3 ENERGIA COMERCIALIZADORA	0,002%
HIDROELECTRICA DLE CABRERA COMERCIALIZACION	0,001%
CE ENERGÍA S.A.	0,001%
La Unión Electro Industrial, S.L.U.	0,000%

Gas Natural is the largest independent supplier company, sharing 7,36% of the market there are other companies which act in the market and which are independent of the transport network and distribution managers as are showed in the table, although the sum of their market shares amounts is less than 3%.

There are many supplier companies of a non-Spanish scope which have penetrated the retail market, the most important are Hidrocantábrico and Viesgo, where, as already indicated, EDP and ENEL have entered the Spanish market through the acquisition of these companies. The sum of the external supplier companies' market share is in the region of about 8%.

Procedures currently exist for the change of supplier prepared by the Spanish Energy Commission, but which have not yet been published in the Official State Gazette and which, based on the experience accumulated in these years of deregulation, are now being reviewed and updated. At present no charge is being applied for a change in the energy hiring modality (tariff to market or vice versa) or for a change of supplier.

The foregoing notwithstanding, and for low voltage, the maximum time allowed for the change of supplier to be implemented has been laid down in Article 6 of Royal Decree 1435/2002, which establishes that, in general, the change of supplier must take place within 15 days of the request for a change, with the option of this change coinciding with the supply reading cycle.

Information on current end price levels (as per Eurostat data) for typical consumers referred to in point 3.1.3. Calculate an end price estimation broken down as per the following components: network costs, levies included in network costs, energy cost plus commercial margin and taxes.

In Spain the access tariffs are regulated prices which encompass within a single payment the different access costs defined in Royal Decree 1164/2001. The breakdown of the different cost components defined in the questionnaire (energy, networks, other levies and taxes) in each one of the access tariffs selected in the questionnaire is not known.

An estimation exercise is presented below in which the access costs of each valid access tariff are distributed by components, following the cost percentage structure included in the mean access tariff.

The hypotheses considered for separating the different cost concepts in the estimation exercise requested in this questionnaire are as follows:

- The access tariffs on which the components have been calculated are those specified in Royal Decree 2392/2004:
  - 2.0nA for *Dc* consumers
  - 3.0A for *Ib*
  - 6.2 for *Ig*

- The transmission, distribution and trading management costs (network costs) have been calculated on the basis of the access tariff corresponding to each type of consumer, after deducting the percentage corresponding to other levies (Costs of the Market Operator, CNE, System Operator, off-peninsular Compensation, cost of transition to free competition, the cost of the Nuclear Moratorium, the 2nd part of the nuclear fuel cycle, compensation to distributors included under the 11th Temporary Provision for interruptibility and purchase of electricity from generating facilities under the special regimen, the special regime surcharge, the imbalance in revenues prior to 2003 and the cost of extra-peninsular generation in 2001 and 2002). The percentage of these levies is a proportional distribution which is calculated in accordance with the 2005 cost pricing.

- The amount corresponding to "*levies included in network costs"* is that which is obtained by applying to each corresponding access tariff the cost percentage of the Market Operator, CNE, the System Operator, off-peninsular Compensation, the cost for the transition to competition, supply diversification and security (the cost of the Nuclear Moratorium, the 2nd part of the nuclear fuel cycle, compensation to distributors included under the 11th Temporary Provision for interruptibility and purchase of electricity from generating facilities under the special regimen, the special regime surcharge), the imbalance in revenues prior to 2003 and the review of the extra-peninsular generation cost of 2001 and 2002.

- The energy component is calculated by adding to the average market price corresponding to the year 2005 the cost of complementary services, power

guarantee payments and losses, corresponding to each time block access tariff. The same generation cost has been applied for all consumer types, with the exception of consumer type Dc, for which the charge profile defined in Resolution of 28th December 2004, by virtue of which the consumption profile and calculation method was established for the purpose of energy settlements applicable to type 4 and type 5 consumers which do not have nocturnal time register, has been used.

- The electricity suppliers' commercial margin has not been included in the final calculated price in the following table.

- Taxes are obtained by applying to the end price the electricity tax (5.113%) and then VAT (16%).

End Price by Components of Typical Consumers (cent€/kWh). Year 2005

Typical Consumers	Network Costs	Levies	Energy Costs (2)	Taxes	End Prices (cent€/kWh)
Dc (1)	3,35	1,88	7,60	2,81	15,64
Ib	3,43	1,92	7,45	1,89	14,70
Ig	0,69	0,39	6,26	1,61	8,95

(1) This is not a representative domestic customer in Spain
(2) Commercial margin not included

Note: If, as requested in the questionnaire, each one of the end prices estimated by components is compared with the prices resulting from the application of the integral tariffs, the result would be that there is no commercial margin for any customers types.

It should be pointed out that the domestic consumer type defined in this questionnaire is not representative of domestic consumption in Spain given the fact that it is a consumer with the nocturnal tariff. At present, only 4,5% of all domestic and other uses customers have chosen this tariff. In Spain, the representative domestic consumer enjoys tariff 2.0 without discrimination for nocturnal consumption (95% of all domestic consumers). The calculation of the end price by components of type *Dc* consumers, without taking into account price time discrimination, that is, applying access tariff 2.0A, is that shown in the

following chart. It should be noted that the end price published by Eurostat for this consumer type applies integral tariff 2.0N.

Typical Customers	Network Costs	Levies	Energy Cost	Taxes	End Prices (cent€/kWh)
Dc (1)	3,10	1,74	8,75	2,81	16,39

(1) Invoiced at tariff 2.0A (without discrimination for nocturnal consumption)

3.2.3. Measures to avoid abuses of dominance

The report should also set out rules governing conduct of generation companies in the wholesale markets including

- ***transparency (which information on availability is required, how near to real time, forecasts?)***
- ***bidding behaviour***
- ***market surveillance***
- ***experience with virtual power plant auctions or other capacity release measures.[3]***

The report should also set out rules governing conduct of supply companies including

- ***transparency,***
- ***rules concerning contract structure,[4]***
- ***provision of information.***

The report should detail any competition policy actions in either the wholesale or retail sectors.

In Spain numerous instruments exist for avoiding situations of abuse of power.

[3] For example, prices paid, successful bidders, what impact on the market.
[4] e.g. whether long term contracts are allowed with, for example, restrictions or penalty clauses

Competition authorities in Spain, responsible for the enforcement of Competition Act, are the Service for Defence of Competition (with investigation powers) and the Court for Defence of Competition (with decision powers).

The aforesaid bodies prepare the proceedings corresponding to specific cases reported to them and regarding also others on which they have received information. The proceeding is initiated ex officio or at the request of the interested party. Consequently, any agent acting in the electricity sector can report to the Service any situation which may involve practices that are contrary to free competition.

At the same time, Hydrocarbons Act 34/1998 attributes to the Spanish National Energy Commission (CNE) certain functions, amongst them should be highlighted that consisting in ensuring that the agents which act in the energy markets carry out their activities according to the principles of free competition. To this end, whenever the CNE detects the existence of signs of restrictive practices, prohibited by the Competition Act, it will report it to the Service for Defence of Competition.

In the exercise of the aforementioned function and in connection with the electricity wholesale market, the CNE has drafted numerous reports, approved by the CNE's Council of Commissioners and submitted to the Service for Defence of Competition, indicating the existence of signs of abuse of power by certain companies in the electricity market.

The CNE reckons that it is important to act against situations which can affect the normal functioning of the market and constitute practices that are contrary to free competition, and avoid that this behaviour goes on in the future.

Similarly, in connection with the electricity and gas distribution and trading activities, CNE receives complaints and information about actions contrary to free competition, analyses them exercising of the above-mentioned function of safeguarding free competition in the market, such as, for example, difficulty in gaining access to the distribution network, unfair practices in the capture of customers for the deregulated market, discriminatory treatment

in the access to the distribution network, application of discriminatory prices, incidents in the change of supplier procedure.

With regard to the electricity production activity, the Spanish Electric Power Act establishes that the market operator shall exercise its functions respecting the principles of transparency, non-discrimination and independence, under the control and monitoring of the so-called Market Agents Committee, thereby constituting another instrument for controlling the working of the electricity wholesale market.

The functions that the legislation confers to such Committee are the following: supervision of the working of the system's economic management, proposal of measures that may result in the production market's better working. This Committee is composed by representatives from all the agents with access to the market, qualified consumers and the market and system operators.

Among the Market Agents Committee's specific functions, one of the most important is to obtain regular information from the market operator on all aspects of the system's economic management that allow the degree of competition of the electricity market to be analysed.

Rules for the working of the electricity market have been established for the purpose of carrying out its economic management, which buyers and sellers in the electricity market must expressly abide by, through the signing of the corresponding adhesion agreement.

Thus, the rules for the market's working establish that the market's agents will act in the market in compliance with legal and regulatory provisions and in accordance with what is established therein.

Likewise, it is established that the market agents may demand both the result of the validations and the result of the different markets, in addition to the settlements, as established in the rules.

Complaints will be made known to all agents, with the exception of those which, owing to their nature, the agent may decide to establish as confidential. All disputes, disagreements, claims and differences that may arise shall be settled by the CNE.

In short, the market agents can lodge claims relating to the market's working, at the first sign or suspicion of incorrect behaviour.

Although the electricity market's working rules do not include specific rules relating to the behaviour of the buying and selling companies, they do include guidelines for its working which represent a guarantee for the correct energy matching process and, consequently, for the avoidance of obligations contrary to the markets correct working, including behaviour that is contrary to free competition:

- Obligation of abidance by the electricity market's Working Rules through the signing of the adhesion agreement.
- Obligation of registering the electricity production and buying units in the market operator's data system, through which offers are made. Authorization for the use of the market operator's electronic means of communication is conferred on a personal and non-transferrable basis to the physical person appointed to act in the name and on behalf of the selling agent. Nobody can be authorized to act on behalf of more than one agent simultaneously or to act on behalf of an agent other than the one with which it maintains a dependent services relationship. To this end, whoever wishes to act on behalf of an agent, before being registered in the market operator's electronic means of communication, must present a declaration to the latter certifying that he/she does not maintain a dependent services relationship with any other agents. In general, it can be concluded that these measures have been designed, amongst other objectives, to avoid the abuse of power.
- Once buyers and sellers have submitted their offers to the market operator, the latter checks them, as a condition prior to their possible acceptance.
- Information about unavailability is sent by the system operator to the market operator. The market operator assumes that all the production units not included in the last information about unavailability sent by the system operator are available.

Once the final matching of selling and buying offers has taken place, the market operator informs the system operator of the data relating to the results of the match, in the daily and intra-daily markets, and sends to the agents a notification with data corresponding to their production and buying units.

The final result of the match is adjusted by the energy supplies which the market and system operators agree on to overcome any technical restrictions, referring not only to the Spanish electricity system but also to international interconnections and any exceptional situations in the transport or distribution networks.

Finally, another instrument designed to guarantee the good working of the gas and electricity markets are the codes of conduct of the companies involved, established for the purpose of ensuring legal, ethical and transparent behaviour. In general, all the large Spanish operators have codes of conduct.

In turn, and in connection with the electricity market, Spanish legislation established for the market operator, which is responsible for the wholesale market's working, the necessity of drawing up and publishing a code of conduct applicable to this company, available since 1998.

The above-mentioned code of conduct establishes the principles of action in the market for the IBERIAN ENERGY MARKET OPERATOR, POLO ESPAÑOL, S.A., indicating that it must act at all times with full respect for the principles of transparency, non-discrimination and independence, of which the following should be highlighted:

- Discriminatory treatment of any of the Electricity Market Agents shall not be allowed.
- Any preference shall be given to the orders issued by Market Agents.
- Avoidance of arbitrary actions, being guided by the legally established procedural requirements.
- Obligation not to reveal to some Market Agents the selling and buying offers made by other Market Agents, except in those cases in which this is authorized by the applicable rules and standards.

- Not to stimulate the preparation of an offer by one Agent for the purpose of benefiting another.
- To reject transactions involving any physical person or body corporate which does not have the legal consideration of Market Agent and to reject any transaction of which it has knowledge that infringes the applicable regulations.
- Not to request or accept direct or indirect gifts or incentives, the aim of which is to influence the transactions or which may create conflicts of interest with other Market Agents.
- To foster transparency in the price establishment and diffusion process, avoiding the disclosure of false or inaccurate data.
- To safeguard market information, avoiding and correcting cases of abusive or unfair use of such information and their consequences.
- Duty of strict confidentiality of the information handled.

In connection with professional relations, except when expressly authorized, neither directors nor employees can have a labour relationship of any type nor can it carry out any orders, work or duties for any of the Electricity Market's Agents.

A register of the securities issued by entities with the legal consideration of Electricity Market or System Operator Agents that are in the possession of their board members, directors and employees shall be kept up-dated, with such securities portfolios being monitored on an annual basis.

At the same time, the market operator shall carry out a permanent activity of transfer of information on the market, its working and its results. Thus, it immediately publishes the market's results and places at the disposal of the general public the following information, as indicated in the prevailing legislation:

- Publication of market supply and demand aggregate curves
- Publication of commercial capacities and intra-community and international cross-border capacities

- Monthly publication of the results of the energy programmes aggregated by agent and calendar month of the electricity market, once one month has elapsed since the last day of that to which they refer.
- Monthly publication, once three months have elapsed since the last day of that to which they refer, of the offers submitted by the market agents.

Finally, Royal Decree-Law 6/2000, of 23rd June, of urgent measures for the intensification of free competition in goods and services markets, amended by Royal Decree-Law 5/2005, established in its article 34 a limitation on the participation in more than one main operator in the energy sectors. Main operator is deemed to be any operator which, having the condition of operator in such markets and sectors is in possession of one of the five largest shares in the market or sector in question.

Thus, it is established that those physical persons or bodies corporate which directly or indirectly hold a stake in the corporate capital of two or more companies with the condition of main operator in the same energy market or sector affected by the rule (the electricity, gas, liquid hydrocarbon and LPG markets), in a proportion that exceeds 3 per cent of the total capital or voting rights, may not exercise the voting rights which correspond to the excess over and above such percentage.

The physical persons and bodies corporate to whom the excess referred to above is attributed shall inform the Spanish National Energy Commission, within one month from the date on which such circumstance arises, of the company in respect of which they wish to exercise their voting rights without any limitations.

Likewise, without prejudice to the provision relating to the exercising of voting rights, no physical person or body corporate may directly or indirectly appoint members of the administrative bodies of more than one company with the condition of main operator in the same market or sector of those affected by the rule.

The aim of the foregoing limitations is to avoid pre-arranged decisions or any other type of commercial practices which may be materialised between the most important operators in the energy markets and whose consequences may result in the effective restriction of free

competition. Thus, the fact that the same physical person or body corporate holds stakes in more than one main operator in an energy market will necessarily result in the possibility of information flows between both operators, thereby offering competitive advantages and the possibility of abuse of power, being able to adopt decisions and strategic activities to benefit one or several operators in detriment to all the others.

Royal Decree-Law 5/2005 introduced a new figure, the dominant operator in the above-mentioned energy markets, which is defined as any company or group of companies with a market share in excess of 10 per cent. The prevailing legislation refers to certain limitations to be applied to dominant operators, in their capacity as operators with a significant market share, relating to the conducting of their activities, such as the prohibition of electricity purchases in other Community countries outside the scope of the Iberian Electricity Market or in third countries. The limitations and prohibitions which affect dominant operators have also been designed to exercise a certain control over the activities carried out by these operators, for the purpose of protecting free competition, thereby avoiding situations of abuse of power by the agents with the largest market share which operate in the energy sectors.

On July 3rd, 2006 Mibel derivates market has began its trading activity, under the responsibility of the Portuguese division (OMIP), constituting the launch of MIBEL.

The Iberian Electricity Market (MIBEL) constitutes a joint initiative from the Governments of Portugal and Spain, and is an important step in the development of an internal electricity market.

The Mibel organisation is based on the principles of transparency, free competition, objectivity, liquidity, self-financing and self-organisation.

At the XXI Iberian Summit, November 18th and 19th 2005 in Évora, the Governments of Portugal and Spain restated their commitment to build the Iberian Electricity Market and the Iberian Natural Gas Market (MIBGAS), according to Santiago Agreement, signed on October 1st 2004.

Santiago Agreement obligates the parties to develop, in a coordinated way, the legislation needed for the functioning of an integrated market and for the establishment of the powers of the MIBEL´s Regulatory Board (integrates the energy regulators of the two countries), the Market Agents Committee (integrates representatives from all the entities who participate in the market) and the MIBEL Economic and Technical Management Committee (integrates the Market and System Operators of the two countries) and defines issues related to regulation, consultation, supervision and management of MIBEL, as well as the legal regime relative to infringements, sanctions and jurisdiction area.

In Spain the organizations of supervision of MIBEL are the National Energy Commission (Spanish National Energy Commission or CNE) and the National Stock Market Commission (CNMV), according to article 10 of Santiago Agreement.

The mentioned article indicates that the supervision of the markets defined in the MIBEL will be made by the organizations of supervision of the part in which these are constituted, in agreement with the legislation of each part in this matter.

With the entry into force of Santiago Agreement, immediately has been constituted a Regulators Board, under the terms defined in article 11 of that Agreement.

The Board of Regulators will have the following functions, established in article 11 in Santiago Agreement:

a) to pursuit the application and development of MIBEL,

b) to inform mandatorily previous to the imposition of sanctions, in case of serious infractions,

c) the coordination of the behaviour of its members, in the exercise of its powers of supervision,

d) to inform on regulation proposals about the MIBEL operation or its modification, and on the regulations proposed by the governing societies the markets constituted,

e) any others that is decided by the parts.

At the present time, the president of the CNE has assumed the presidency of the Board of Regulators.

4 REGULATION AND PERFORMANCE OF THE NATURAL GAS MARKET

4.1 REGULATORY ISSUES [ARTICLE 25(1)]

4.1.1 General

Degree of market opening and likely future development including the current percentage of the market open to competition and the eligibility threshold

Eligibility levels:

At present there is no minimum level of consumption for exercising the right to obtain supplies on the free market. Since 1 January 2003, all customers are eligible, regardless their consumption level and the final use of gas.

Below is a figure with the evolution of eligibility levels:

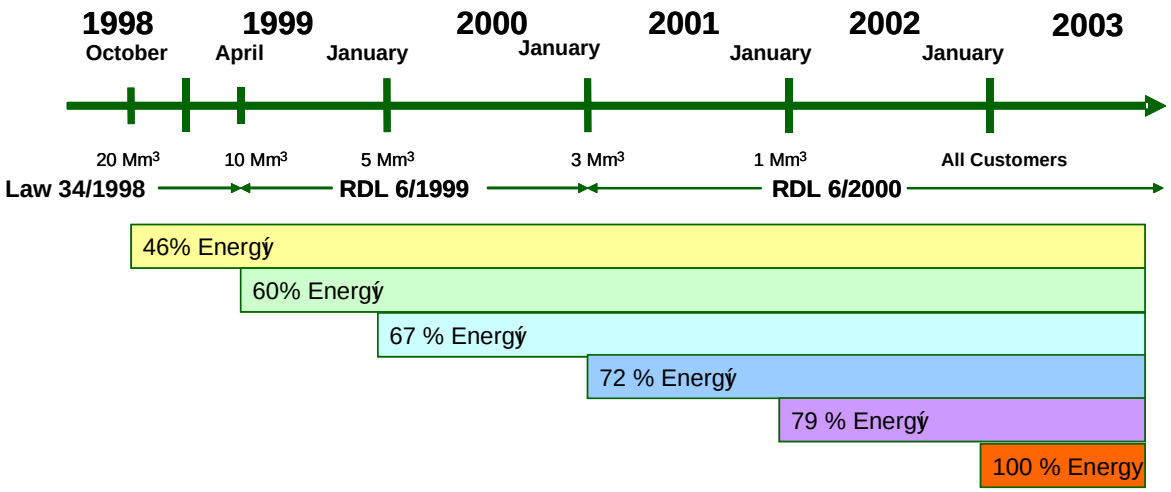


Figure. Evolution of eligibility levels.

Market opening:

In 2005, consumption supplied through the deregulated market totalled 84%. The figure below shows the evolution of the share of consumption between the regulated and the deregulated markets:

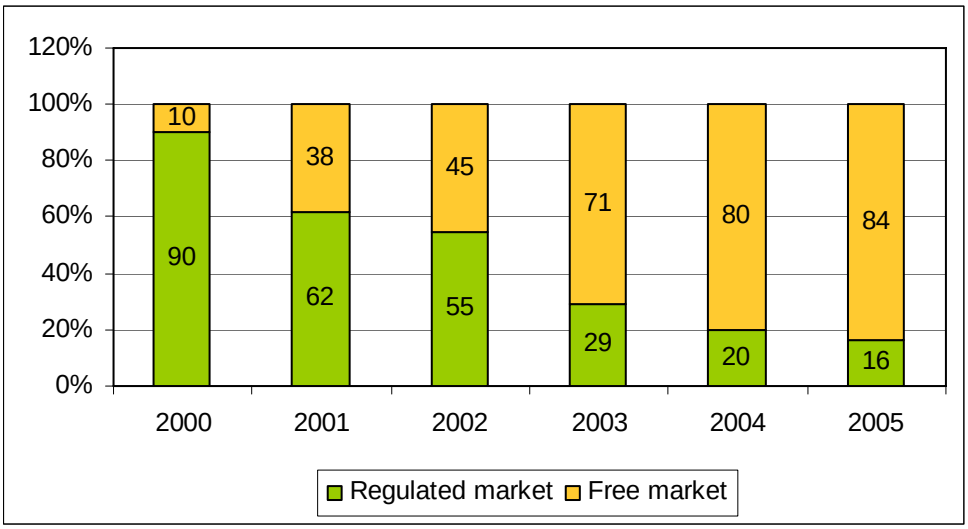


Figure. Evolution of market opening

As regards shares of the free market, it should be noted that 52.4% of this market was supplied by companies other than the incumbent (Gas Natural). The number of suppliers participating increases slightly with respect to 2004.

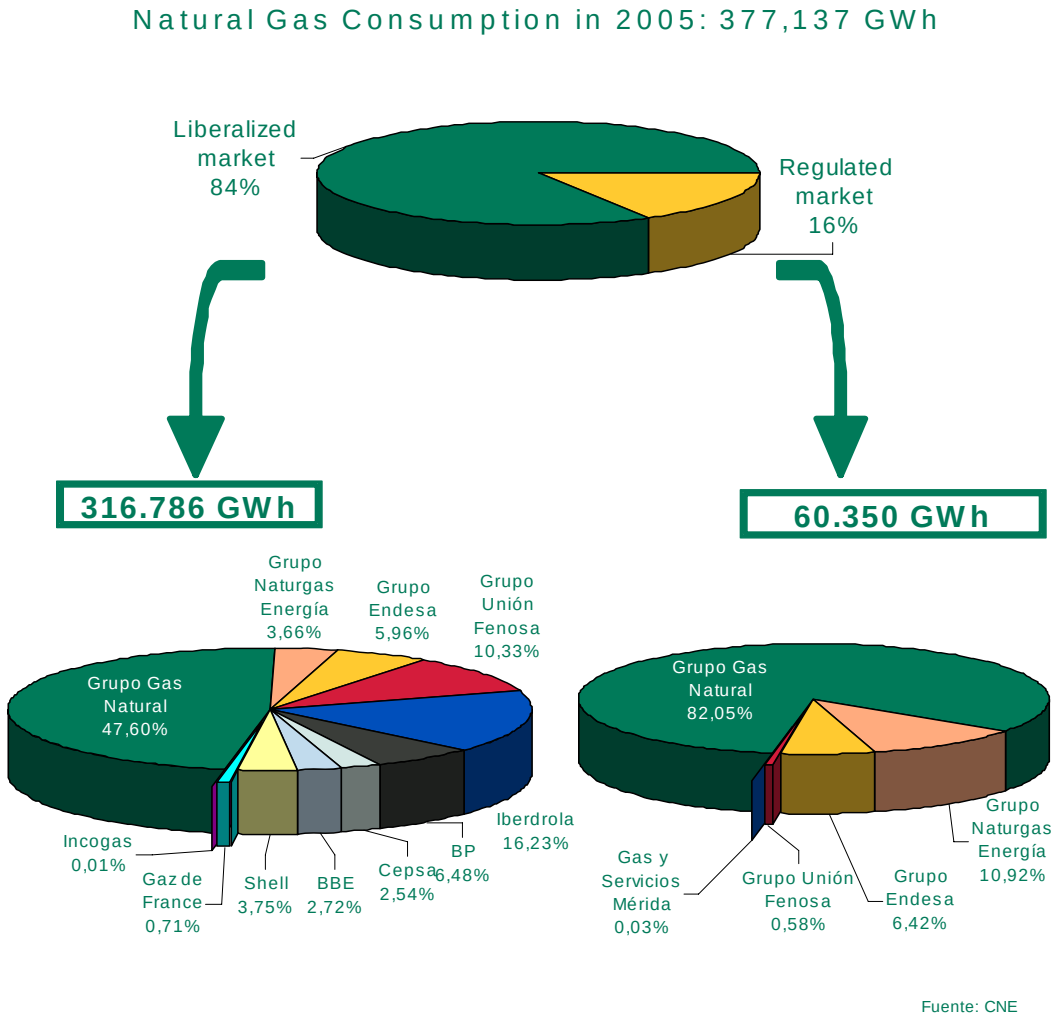


Figure. Opening of market in 2005. Shares of suppliers.

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

Quantification of congestion, both nationally and on cross border links. The report should assess, with reference to data on actual physical flows whether congestion is physical, or the result of long terms capacity reservations implying that unused capacity can be made available to the market on an interruptible basis.

The rules being, or to be applied under the Directive [and following the entry into force of the Gas Regulation] should be set out, including the provision of information to the market by TSOs.

Regulatory measures related to contractual congestion avoid situations of congestion owing to contractual capacity at the system's input points during 2005.

The regulatory measures that eliminated the contractual congestion consisted essentially of the posting of a bond when transport capacity is reserved, and the loss of reserved capacity in case of continuous underuse or when congestion might cause a denial of access to other actors (UIOLI).

These measures were established by the Royal Decree 1434/2002 of 27 December, which modified Royal Decree 949/2001 of 3 August. The mentioned measures were described in Spanish annual report 2005. However, there not have been new measures established since then.

As regards congestion of a physical nature, it should be noted that the international connections at Tarifa and Larrau have nearly reached that point, though expansions of capacity are planned for Larrau. The capacities of Tarifa and Larrau are intended for long-term contracts; but this capacity is being used. The new international connection at Irún, in operation since 2005, presents physical congestion which requires the development of more Spanish and French gas infrastructures. The regasification plants have available capacity to contract.

At present, transmission, regasification and storage facilities operators must publish a quarterly report on contracted and available capacity in each of their facilities, wherein they must distinguish between capacity assigned to access contracts with a duration greater or equal to two years, and access contracts with a duration of less than two years.

In particular, operators of input points currently in operation publish on their websites this information for a timeframe of 10 years, broken down by months for the first four years and in annual figures for the remainding period.

On cross-border links where a large proportion (>50%) of capacity is reserved on a long-term basis, the report should describe tariffs charged by the incumbent for

secondary capacity sales. The secondary market for capacity should be assessed, including provisions for transparency, use-it-or-lose-it and other congestion management.

The Spanish law does not include the possibility for secondary capacity markets yet. A secondary capacity market, though, is being planned by the Ministry of Industry, Tourism and Trade and should be implemented at the end of 2006.

Under present regulations, transmission companies must set aside at least 25% of their capacity to contracts of less than two years' duration (regasification, storage and input to the transmission system). No single marketer may accede to more than 50% of these capacities. These percentages may be revised by the Ministry of Industry, Tourism and Trade according to trends in the market. As noted above, the capacity of Larrau and Tarifa interconnections is reserved for long-term contracts that predate the regulation requiring assignment at least 25% of capacity for short-term contracts, though it should be born in mind that there is no underuse of these infrastructures.

As indicated above, transporters are compelled to publish the capacities contracted and available for each of their facilities, with a distinction between capacity assigned to contracts with a duration longer or equal to two years and contracts of less than two years, respectively. As special measures to prevent congestion, the law envisages the posting of bonds and the loss of both, the bonds and the capacities reserved, in case of underuse.

Where cross-border links are congested, the role of swaps in avoiding congested network elements should be assessed, in particular whether the effect is de facto discriminatory.

At the international connections of Larrau and Irún, in northern Spain, numerous applications are being presented for reverse flow, which should presumably contribute to decongesting the connections with France by means of swaps.

The report should note if different arrangements exist for "transit" contracts concluded pursuant to Article 3(1) of Directive 91/296 and the extent to which

transmission capacity is absorbed by such contracts. The date of expiry of such contracts should be indicated, where possible.

The only different arrangements for transit in Spain exists in the natural gas transit line from the entry point of Tarifa (Spain) to the exit through Campo Maior (Portugal), through gas pipelines that have been jointly developed and owned by Spanish (ENAGAS) and Portuguese (TRANSGAS) TSO's. This transit is governed by a private contract negotiated between the parties. The transport contract signed by the Portuguese company TRANSGAS with Spanish transporters is prior to 1998, the year in which EC Directive 98/30 was transposed. It is a long-term contract. Only capacity reserved in the Spanish pipelines to supply the Portuguese market is excluded form TPA.

The transit line is the result of some collaboration agreements between ENAGAS and TRANSGAS to develop the Maghreb-Europe connection, which enabled the supply of Algerian natural gas to the Portuguese and Spanish markets.

The robustness of the TSO methodology for assessing maximum technical capacity should be assessed.

There is no substantive reason to doubt the reliability of the current method used by TSO's to evaluate the maximum technical capacity available. However, regarding to the Network Code, some working groups have been created to develop those aspect not totally finished on the new rules. One of these groups is focusing on the standard methodology to establish the technical capacity of gas facilities.

4.1.3 The regulation of the tasks of transmission and distribution companies

Access rates

By publishing Ministerial Orders, the Government annually determines the rates, tolls and fees of natural gas. These are the single applicable prices for the entire country. Under Hydrocarbon Act, the CNE shall participate, either by making a proposal or report, in the

process of creating projects for determining the rates, tolls and remuneration of energy activities.

To undertake the studies necessary to underpin the reports on the Ministerial Order projects on the sale rates, tolls, levies and remuneration in the gas industry, the CNE gathers the necessary information from the different actors in the industry.

To calculate the income of the system, information is gathered from suppliers on projections for invoicing variables – number of customers, capacity contracted and customer consumption – both in the regulated market and in the deregulated market, broken down by tariff groups. This information is gathered both for the end of the year in progress and for yearly rate forecasts. Forecasts provided by companies are compared to available information by the CNE for settlements of regulated activities in natural gas. In like manner, individualised information is requested on the forecasts of major consumers of gas such as combined cycles, electrical plans and supplies under the interruptible sale rate.

In the annual rate exercise, determination is made of the variations to be applied in sale rates, tolls and levies of natural gas, so as to cover the regulated costs of the system.

For transport, storage and regasification, remuneration for new facilities is set at service cost, calculated at standard levels. Operating costs are remunerated at standard levels. Further, the initial remunerative base set in 2002 is updated through an IPC-x formula. Nevertheless, remuneration of each distribution company is set according to a revenue cap formula, the basis of which was established in 2002.

Estimation of average network access tolls for the most recent period of information available, in relation to consumer types as defined by Eurostat.

Network tolls by types of natural gas consumers (cent€ /kWh). 2005

Type Consumers	Annual Consumption (KWh)	Access Toll (cent€/kWh) (1)
D3	23 260	2,22
I1	116 300	1,14
I4-1	116 300 000	0,26

(1) Not including tax

The prices in the above table are for 2005, as published in Order ITC/103/2005. They are the result of adding levies for regasification, transport and distribution and the underground storage fee[5] as applied to each type consumer. The prices also include network costs, other regulated costs included in levies and fees, such as the CNE quote, the GTS quota, the provisional re-routing owning to the settlement of 2004, and the imbalance in revenues of 2002 and 2003 .

A load factor has been assumed at the entry point of 85% and at the exit point of 50% for consumer type D3. For I1 and I4-1 consumers, the load factors used in the questionnaire, 56% and 69% respectively, have been used.

4.1.4 Effective Unbundling

Whether legal ownership has been implemented yet for TSOs and DSOs

How many TSOs and DSOs are there?

How many TSOs, DSOs are ownership unbundled?

Details on the ownership of TSOs and an overall review of the ownership structure for DSOs.

In order to transpose the Directive 2003/55/EC to the Spanish legislation system, the Spanish Governement has drafted and approved a draft law (hereinafter referred to as "A*nteproyecto de Ley*"), that will become into force as soon as it goes through the appropiate administrative proceedings.

[5] Not including the LNG storage fee

The Anteproyecto de Ley amends the Hydrocarbon Act. Therefore most explanations relate to the modifications introduced by the mentioned “Anteproyecto de Ley”.

Definition of gas transmission companies and gas distribution companies under the Spanish Law on the hydrocarbon market after the modifications introduced by the Anteproyecto de Ley, is as follows (article 58),:

a) The transmission companies are legal entities which own LNG regasification, natural gas transmission and natural gas storage facilities.

c) The distribution companies are entities that own distribution facilities and that are responsible for the building, maintenance and operation of the distribution facilities used to situate gas in points of consumption.

The Hydrocarbons Act, in article 63, requires the legal unbundling of activities, whereby regulated tasks such as LNG regasification, storage, transmission and distribution must be separated from marketing activities, which are carried out freely. Companies have adapted their structures following this legal framework; thus legal unbundling has already been implemented.

The Anteproyecto de Ley will introduce modifications on such article 63 so as to include as well the independence of organisation and decision making of TSOs and DSOs where TSOs and DSOs are part of vertically integrated undertakings (adaptation of articles 9 and 13 of Directive 2003/55/EC). The modified article 63 will state that:

1. Companies that engage in one or more of the regulated activities – regasification, strategic storage, transmission and distribution – must have as their sole corporate purpose the performance of such activities, where they may not engage in commercialisation.

2. Proprietary companies of any of the basic network facilities of natural gas, as defined in point 2 of article 59, must have as their sole corporate purpose in the gas industry the transmission activity as defined in section a) of article 58; they may have among their assets gas pipelines in the secondary transport network, where they must keep separate accounting internally for activities of regasification, storage and transport.

3. Nevertheless, a group of companies may undertake activities that are incompatible under the preceeding sections, provided they are performed by different companies and meet the following criteria:

   (a) Those persons responsible for the management of companies engaged in regulated activities may not participate in company structures of the integrated undertaking responsible, directly or indirectly, for the day-to-day operation of the production and supply;

   (b) Appropriate measures must be taken to ensure that the professional interests of persons responsible for the management of companies engaged in regulated activities are taken into account in a manner that ensures that they are capable of acting independently. In particular, guaranties must be adopted regarding their remuneration and cessation

   Companies that carry out regulated activities, and those persons responsible for their management may not participate in the share capital of companies engaged in production and commercialisation.

   (c) Companies carrying out regulated activities shall have effective decision-making rights, independent from the integrated undertaking, with respect to assets necessary to operate, maintain or develop the LNG regassification facilities, and the transmission, storage and distribution facilities of natural gas.

   This should not prevent the existence of appropriate coordination mechanisms to ensure that the economic and management supervision rights of the undertaking in respect of a subsidiary are protected. In particular, this shall enable the undertaking to approve the annual financial plan, or any equivalent instrument of the subsidiary and to set global limits on its levels of indebtedness.

   By no means shall the undertaking give instructions to subsidiaries engaged in regulated activities regarding day-to-day operations, nor with respect to individual decisions concerning the construction or upgrading of the LNG regassification facilities, and the transmission, storage and distribution

facilities of natural gas, that do not exceed the terms of the approved financial plan, or any equivalent instrument.

(d) Companies engaged in regulated activities shall establish an internal code of conduct, which sets out measures taken to ensure that the objectives set out in the previous paragraphs a), b) and c) are met.

The internal code of conduct shall set out the specific obligations of employees to meet this objective and the undertaking shall ensure its compliance.

An annual report, setting out the measures taken, shall be submitted by the person or body responsible for monitoring to the Ministry of Industry, Tourism and Trade, Tourism and Trade and to the National Energy Commission, and shall be published.

4. Companies that engage in regulated activities may take holdings in other companies that perform activities in economic sectors other than the natural gas industry, provided they obtain authorization as per the additional provision eleven, third 1, thirteenth of this Law.

In Spain there are currently eleven natural gas transmission companies and twenty five natural gas distribution companies. Nevertheless, it should be stressed that some companies with regulated activities (transmission and distribution) engage in activities in other economic sectors, such as electricity production.

There are five main groups of companies in the gas industry: ENAGÁS, GAS NATURAL, NATURCORP, ENDESA and IBERDROLA.

ENAGÁS is the main gas transmission company in Spain and it has 7,538 km of high-pressure gas pipelines, three of the existing regasification plants (Barcelona, Cartagena and Huelva) among its assets, as well as the property or management of the natural gas storage.

NATURCORP operates mainly in the north of Spain, through its subsidiaries Naturgas Energía Transporte SAU (100% owned), Septentrional de Gas SA (70% owned), and Infraestructuras Gasísticas de Navarra (50% owned)

On 30th September, the Board of GAS NATURAL approved the segregation of the Distribution and Transmission activities and the inclusion of the Distribution and Transmission subsidiaries under GAS NATURAL DISTRIBUCIÓN SDG S.A AND GAS NATURAL TRANSPORTE SDG S.L respectively, which are 100% owned by GAS NATURAL.

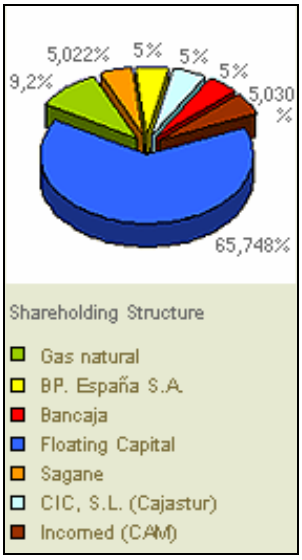
ENDESA carries out transmission activities through Endesa Gas Transportista, S.L (100% owned), Transportista Regional del Gas, S.A (45% owned), Gas Extremadura Transportista, S.L (40% owned).

IBERDROLA operates through its subsidiaries Iberdrola Infraestructuras Gasistas, S.L. (100% owned), Planta de Regasificación de Sagunto, S.A. (30% owned), Infraestructuras Gasísticas de Navarra (50% owned), and BBG (25% owned)

In accordance with the 20th Additional Provision of the Hydrocarbons Act, the company ENAGÁS has been appointed Technical Manager of the Gas System. The 20th Additional Provision, previous to the modifications introduced by the Anteproyecto de Ley, also states that no physical or legal entity will be allowed to participate directly or indirectly as an ENAGÁS shareholder possessing more than 5% of the share capital or voting rights in the entity.

The "Anteproyecto de Ley" amends the 20th Additional Provision of the Hydrocarbons Act. In accordance with the new 20th Additional Provision, ENAGAS must create a legal and accounting independent Specific Unit to operate as the Technical Manager of the Gas System, in which no physical or legal entity will be allowed to participate directly or indirectly as a shareholder. Moreover, no physical or legal entity will be allowed to participate directly or indirectly as an ENAGÁS shareholder possessing more than 3% of the share capital or voting rights in the entity. For gas companies, or companies holding more than 5% of the share capital in a gas company, the limit to participate in ENAGÁS share capital will be 1%.

The following chart shows the shareholding structure of ENAGÁS as to 31/12/2005:



Source: ENAGÁS website 1

The leading distributors are under the ownership of the groups GAS NATURAL, NATURCORP and ENDESA. It should be noted that not in all cases are they 100% held by their respective parent companies. For example, in the group NATURCORP, the parent company holds some 40-55% of the equity of some of its gas distributors.

On 30th September, the Board of GAS NATURAL approved the segregation of the Distribution and Transmission activities and the inclusion of the Distribution and Transmission subsidiaries under GAS NATURAL DISTRIBUCIÓN SDG S.A AND GAS NATURAL TRANSPORTE SDG S.L respectively, which are 100% owned by GAS NATURAL.

ENDESA carries out distributions activities through Gas Aragón (60,7% owned), Distribuidora Regional del Gas (45% owned), D.C. Gas Extremadura (47% owned), Gesa Gas (100% owned), Gas Meridional (100% owned), and Gas Alicante (100% owned).

Does your country apply the 100000 customers rule?

No

How many DSOs are there with less than 100000 customers?

No information is available

Number of legally separated DSOs that own assets.

Number of legally separated DSOs that do not own assets.

Definition of gas distribution companies under the Spanish Law on the hydrocarbon market after the modifications introduced by the Anteproyecto de Ley, is as follows (article 58),:

d) The distribution companies are entities that own distribution facilities and that are responsible for the building, maintenance and operation of the distribution facilities used to situate gas in points of consumption.

Therefore all DSOs own distribution facilities

Number of employees in the network company

The following table shows the figures for the main companies:

Average number of employees of main DSOs and TSO		
ENAGAS, S.A. [b)]	TSO	917
Gas Natural Transporte SDG, S.L. [a)]	TSO	non available
Distribution subsidiaries ENDESA (aggregate) [c)]	DSO	170
Naturgas Energía Distribución, S.A.U. [c)]	DSO	137
Distribution subsidiaries NATURCORP (aggregate) [c)]	DSO	76
Gas Natural Distribución SDG, S.A. [a)]	DSO	1.092
Distribution subsidiaries GAS NATURAL (aggregate) [c)]	DSO	716

a) The segregation of the Distribution and Transmission activities implied that 1.092 employees of the former Gas Natural SDG were transferred to Gas Natural Distribución SDG

b) average number of employees year 2005

c) last available year: 2003

Share of shared services

Share of shared employees

No information is available

Whether the TSOs and typically DSOs are located separately from both the production and supply firms

In most cases, the gas company subsidiaries of a single group have different registered offices from the parent company; thus, there are separate registered offices for each company performing a different activity in the same business group.

The extent to which the TSOs and present themselves to consumers as separate entities: company names, logos, websites, etc.?

There is a legal unbundling, so each company bills its customers separately and each subsidiary has its own company name. Distributors have their own logo for each company; however, they have a common website for their operations.

Whether unbundled accounts are published or not for both TSOs and DSOs.

Whether the unbundled accounts are the subject of a separate audit from a certified accountant and the extent to which this audit is addressed to the requirements of the regulator

The "Anteproyecto de Ley" amends existing article 62 of the Hydrocarbons Act which relates to the accounting and information requirements from gas companies. Such amendment incorporates the provisions set out in Directive 2003/55/EC article 17 on unbundling of accounts.

Thus, entities that engage in one or more activities in the natural gas shall conduct their accounting in accordance with Chapter VII of the Law on Limited Liability Companies, even if such companies are not limited liability companies. In any case, undertakings shall keep a copy of their annual accounts at the disposal of the public at their head office.

Natural gas undertakings shall, in their internal accounting, keep separate accounts for each of their regulated activities specifying those revenues and expenses strictly allocated to each activity. This rule also applies to the Technical Manager of the System.

Undertakings must explain in the annual report the criteria for the allocation of assets and liabilities, expenditures and incomes.

The gas undertakings must submit to the Authority any information requirements specially […], on their annual accounts, which must be audited according to the Law and shall in particular make sure that the obligation to avoid discrimination and cross-subsidies is respected.

In case of vertical undertakings, the obligation to inform shall also apply to the parent company, if it carries out operations in any energy sector, and to other group companies that are engaged in operations with the gas subsidiary.

Apart from the rules included in article 62 of the Hydrocarbons Act, the Ministry of Industry, Tourism and Trade approved an Act (4099/2005 27th December on Remuneration of the Regulated Gas Sector Activies), which is already in force, by which TSOs and DSOs must submit to the Ministry and to the National Energy Commission their audited accounts.

On the date of this report GAS NATURAL and NATURCORP have already submitted such information.

Companies are audited by independent companies according to the existing regulation. In addition, the regulator has a department that performs inspections in companies to verify the veracity of the information provided, whether financial or technical in nature, in so far as they are of concern to the regulator (measuring equipment, etc).

Whether the regulator sets detailed rules or guidelines on the compilation of unbundled accounts (for example relating to cost allocation), and the consequences of infringements of these guidelines.

What sanctions are available to regulators for the companies failing to comply with management or accounts unbundling requirements?

As already mentioned before, the article 62 of Hydrocarbons Act, together with the Act 4099/2005 27th December on Remuneration of the Regulated Gas Sector Activies, rule the accounting and information requirements from gas companies-Act 4099/2005 is already in force, whereas the “Anteproyecto de Ley” is to be approved.

In addition to that, the CNE has been working together with the Ministry of Industry, Tourism and Trade to prepare a Ministry Act for additional information requirements on accounting and financial issues (Balance Sheets, P&L, Cash Flows and significant facts), though such Ministry Act has not been implemented yet. The information requirements will not address costs accounting.

The law considers a refusal to submit information to the authorities or the CNE as a grave infringement. Similarly, a very grave infraction is to engage in activities that are incompatible under the provisions of the law, though this is in reference to legal, not unbundling of accounting.

Very grave infractions are sanctioned with a fine of between 601,012 and 3,005,060 euros, and grave infractions with a fine of between 60,000 and 601,102 euros, as envisaged in article 113 of the Hydrocarbons Act. Moreover, commission of a very grave infraction may lead to revocation or suspension of administrative authorization and a subsequent temporary disqualification from the performance of the activity for a maximum period of

one year. Revocation or suspension of authorizations shall be decided, in any event, by the authority with the power to grant said authorization.

In conformity with article 116 of the Hydrocarbons Act, very grave sanctions shall be levied by the Council of Ministers, and grave sanctions by the Minister.

Specify the role of the compliance officer in this process

From the start of unbundling of activities, documentation has been checked that accredits the effective founding of new companies with the sole corporate object engaging in the regulated activity.

4.2 Competition Issues [Article 25(1)(H)]

4.2.1 Description of the wholesale market[6]

A description of the structure of the wholesale market relating to each TSO region should be provided with the following indicators covered[7]:

- ***Size of the relevant national market in terms of total consumption (Tm³/yr)***

The table below shows the evolution of gas procurement in the Spanish market, including both domestic production and imports. Data is provided in bcm because Tm^3 is a too large unit to reflect the Spanish figures.

	2005	
	Bcm	%(1)
TOTAL	32.4	
NG	11.3	34.88%
LNG	21.1	65.12%

(1) Based on supply GNL/GN rate in 2005.

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

- ***Average calorific value in the country (Consumption in J divided by supplied m³)***

Data on gas consumption in volume units is not available. In Spain data on consumption is provided in energy unit. In 2005 the consumption was 377.137 GWh (1.353.693 TJ).

Nevertheless, the quality specifications for natural gas supply are specified in the Royal Decree 1434/2002. According to this, the quality of gas supplied must accomplices with the limits established for the H group specified in the normative UNE-EN-437, and what the Network Code determines about it.

Until now, the quality limits for gas in Spanish entry points have been reflected in the access contract, being the same for every agent. Recently, the required specifications have been collected and completed in the Resolution of the Ministry of Industry, Tourism and Trade, which passed on the 13th march 2006, reflected below:

Characteristic (1)	Unit	Minimum	Maximum
Wobbe Index	KWh/m^3	13.368	16.016
Superior Calorific Power	KWh/m^3	10.23	12.23
Density	m^3/m^3	0.555	0.700
Total solids	mg/m^3	---	50
H_2D + COS (as S)	mg/m^3	---	15
RHS (as S)	mg/m^3	---	17
O_2	mol %	---	0.01
CO_2	mol %	---	2.5
H_20 (condensation point)	ºC at 70 bar	---	+2
HC (condensation point)	ºC at 70 bar	---	+5

(1) Reference conditions: [25 ºC, V (0 ºC and 1,01325 bar)]

The gas which does not fulfil these characteristics may be rejected by TSO's.

- ***The amount of productions and import capacity (Tm³ /year)***

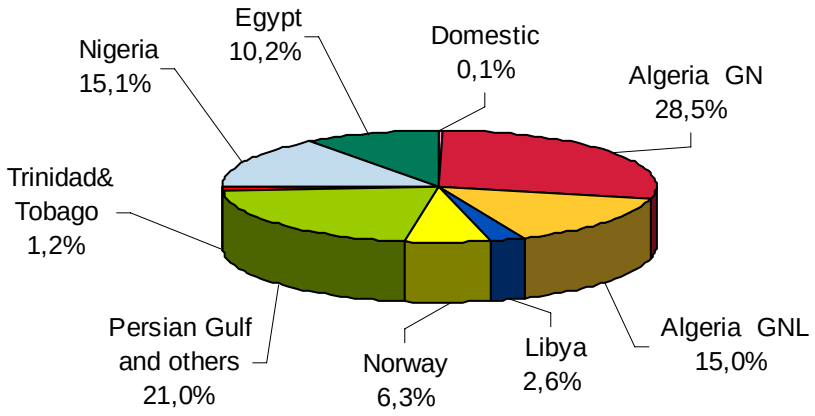
[7] In Spain, the gas companies report on natural gas, using energy units. Data on gas volume consumption is not available. To express the received gas information in volume units it is used a general conversion factor, equal to 11,63 kWh/m^3 (Spain has many different gas sources with very different qualities).

Data is provided in bcm because Tm^3 is a too large unit to reflect the Spanish figures. In Spain there's no domestic LNG.

	2005		Increase
	Bcm	%	2005/2004
TOTAL	33.37		
Domestic NG	0.05	0.15%	-750.71%
Imports NG	11.65	34.91%	9.82%
Imports LNG	21.67	64.94%	21.85%

- ***A description of the main sources of gas (indigenous, Russian, Algerian, Dutch, Norwegian, other N. Sea, other LNG…)***

The figure below shows the origin of gas sources in 2005 in the Spanish market:



NG imports are from Algeria and Norway. The remaining imports are in the form of LNG (Algeria, Nigeria, Egypt, Trinidad & Tobago, Libya, Middle East…).

- ***The number of companies estimated to have at least a 5% share of gas available in the market concerned***

There are five companies (one more than last year).

- ***The proportion of available gas held by the largest three companies***

The three largest supply companies account for about 77% of the supplied gas in 2005.

- ***the proportion of production and import capacity allocated to the largest three companies***

One of these, Gas Natural, owns the entirety of domestic production, which in 2005 accounted for 0.15% of the value of total procurement, where the remainder of its contribution to the Spanish market based on imports. The other two companies have no domestic production, and are instead supplied through gas imports in short and long-term procurement contracts.

The figure below shows that Gas Natural Comercializadora, with 34.5% of total capacity contracted in the deregulated market, is the marketer with the largest capacity of access reserved. Iberdrola stands second in terms of capacity contracted, with 15.5% and then Unión Fenosa, with 9.2%, stands as the third largest agent in terms of capacity contracted.

Contracted entry capacity in the free market at the end of 2005

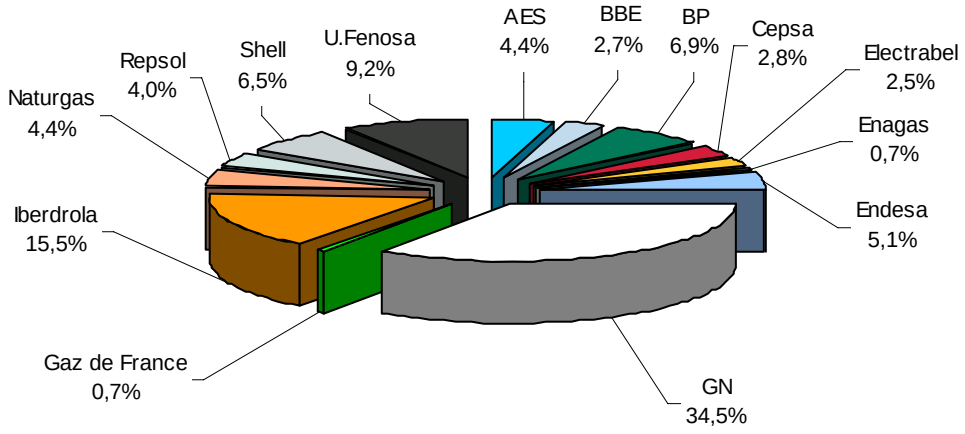


Figure. *Contracting of input capacity in deregulated market as of December 2005. Source: Access contracts sent by infrastructures proprietors.*

- ***the number of foreign companies (EU and non-EU) active on the market and their estimated market share***

Throughout 2005, four foreign companies procured gas to supply the Spanish market (Shell, BP, Gaz de France and Electrabel), companies which are considered non-Spanish, whether EU or not.

- ***how are foreign companies (EU and non-EU) active on the relevant national market (joint marketing activities, own marketing activities, joint ventures, equity shares etc)***

Foreign companies operating in the Spanish market are fully integrated and participate in the market as other actors do, on a level playing field with Spanish companies. They act as marketers, procuring gas on international markets and then marketing and supplying it to final customers in the deregulated market.

They also trade gas in the system with other marketer companies.

One of these holds 5% - the maximum allowed – of the capital of ENAGAS, the System Technical Manager.

- ***the volume of gas traded:***
    - ***on the basis of standardised gas hub products***
    - ***in bilateral "over the counter" trading***
    - ***in long term contracts between producers\importers and suppliers (the proportion should be estimated)***

Given that gas procurement has been deregulated and can be performed freely, there is no information available on gas procurement contracts signed by agents.

Bearing in mind the peculiar nature of the Spanish market compared to other European markets, as procurement of LNG accounts for 64.94% of total procurement, and given the nature of these shipments, it must be remembered that there is a major LNG market in international waters prior to the unloading of gas in regasification terminals. This market accounts for a growing volume of buying and selling.

Although at present there is no organized gas trading market, this trading between marketers have been occurring since 2002, following application of the new regulatory framework, which has the following features:

- It would seem that the main objective of the new framework is optimisation of logistics and finance, so their number will grow progressively as actors learn to optimise flexibilities in the system, and operational profit margins included in the access tariffs adapt to the reality of the system.
- The total transactions completed as of June 2005 is about 5,400, which means a volume of some 121 TWh. These are physical trading transactions.
- It is unknown how many contacts or offers were necessary to achieve this number of transactions, that is, what might be called the churn rate.
- Trading is conducted in three system infrastructures, namely: the transmission network, regasification plants and underground storage. In underground storage facilities, some 3% of trades have taken place, both in number of deals and volume; in the transport network, 51% of the trades occurred and 14% of volume; the remaining trades occurred in plants.
- There is no information on prices.

An organized secondary market is in operation since early 2006, but transactions through this mean have been scarce until now.

Degree of integration with neighbouring TSO regions and Member States and assess the extent to which the market is national, sub-national, or extending beyond national boundaries. Price correlation and trade volumes should be used as indicators and the ease of transactions between TSO areas both national and cross border.

Spain has several international gas pipeline connections to other countries: to Morocco through Tarifa, to Portugal through Tuy and Campo Maior and to France through Larrau and Irún. A new connection with Algeria is planned for 2008-2009.

The interconnection with Morocco is solely for imports, as the new connection with Algeria. There are no plans for a gas market with Morocco in the short term. Gas from this connection accounted for 28.5% of supplies to the Spanish market in 2005.

The interconnection with France in Larrau is a net importer, though there have been short-term contracts for supplies in the reverse flow. The connection in Irun is limited at present due to the congestion of existing capacity.

Existing interconnections to Portugal do in fact have sufficient capacity to develop an authentic Iberian gas market. The system can be considered fully integrated in terms of infrastructures. In 2005, gas exported to Portugal through this interconnection decreased 7.6% to 30.3 TWh.

A future Iberian gas market can be expected once Portugal has TPA.

The specific nature of the Spanish market, in which gas supply in the form of LNG accounts for more than 60% of the total, also promotes the possibility of establishing an LNG market with neighbouring countries. In fact, in 2006 specific access rates have been designed for gas in transit to neighbouring countries.

The report should also set out rules governing conduct of gas producers and importers in the wholesale markets including

- ***transparency (which information are market participants required to release, how near to real time, forecasts?)***
- ***availability of gas to non-incumbents, and new entrants' access to the swaps market***
- ***market surveillance***
- ***competition policy actions***

The report should cover any experience with gas release mechanisms in terms of the effect of release program in terms of liquidity and competitive effect. It should

also give a brief description of the main terms and conditions under which gas release programs have been carried out.

Natural gas can be purchased for consumption in Spain by transporters for sale to other transporters, or to distributors that are connected to their networks to meet supplies to non-qualified customers, marketers for sale to qualified consumers or to other marketers, and to qualified consumers for their own consumption.

Under present legislation, no agent operating in the gas industry can provide natural gas for consumption in Spain at a level above 70% of total national consumption.

Marketers must provide their annual, quarterly, monthly and daily forecasts to the System Technical Manager. Daily nominations for inputs and monthly ones for unloading of ships of LNG are contractually binding. Since the Network Code passing, System Technical Manager, ENAGAS, must publish monthly in its web page information on unloading of ships, gas to be unloaded and free unloading slots. Demand and operational information is also available, together with capacity. It lasted from 2000 to 2003.

Program of gas capacity release

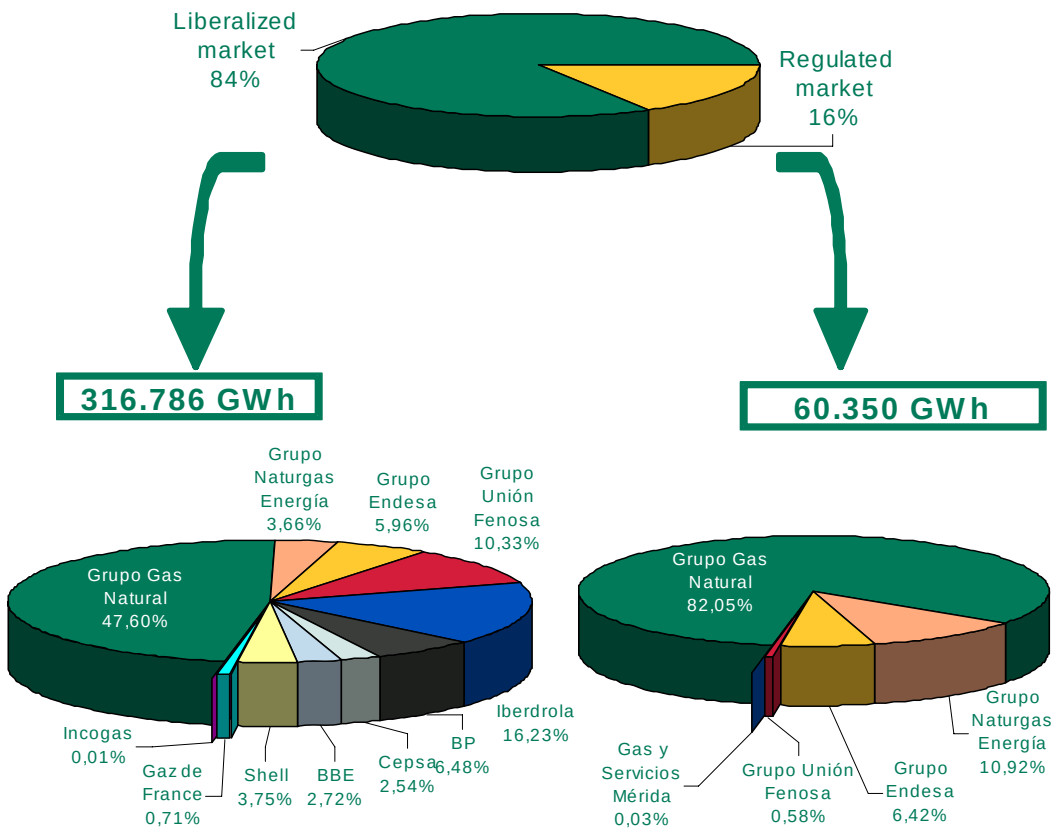
In Spain, the only program of gas and capacity release implemented until now was described in the last year Spanish annual report to the European Commission.

4.2.2 Description of the retail market

A description of the retail supply market should set out, for the most recently available period, the main players and their market shares in supplying:

The figure below shows the volume of annual consumption in the Spanish market in 2005 by type of supply, whether regulated or deregulated, as well as by supplying business group:

Natural Gas Consumption in 2005: 377,137 GWh



Fuente: CNE

At the beginning of 2005, there were 26 companies inscribed in the registry of marketers (two more than last year). These were as follows:

Gas Natural Comercializadora, S.A., Naturgas Energía Comercializadora, S.AU. Hidrocantabrico Energia, S.A. (Sociedad Unipersonal), BP Gas España, S.A., Endesa Energia, S.A.U., Shell España, S.A., Cepsa Gas Comercializadora, S.A., Union Fenosa Gas Comercializadora, S.A, Carboex, S.A. (Sociedad Unipersonal), Gaz de France Comercializadora, S.A., RWE Trading GMBH Sucursal en España S.A., Unión Fenosa Comercial, S. L., Ingeniería Y Comercialización del Gas, S.A. (Incogás), Eni España Comercializadora de Gas, S.A.U., Investigación Criogénica y Gas, S.A., Gas Natural Servicios SDG, S.A., Electrabel España, S.A. (Sociedad Unipersonal), Repsol Comercializadora de Gas, S.A. , Iberdrola, S.A., Bahia de Bizkaia Electricidad, S.L.,

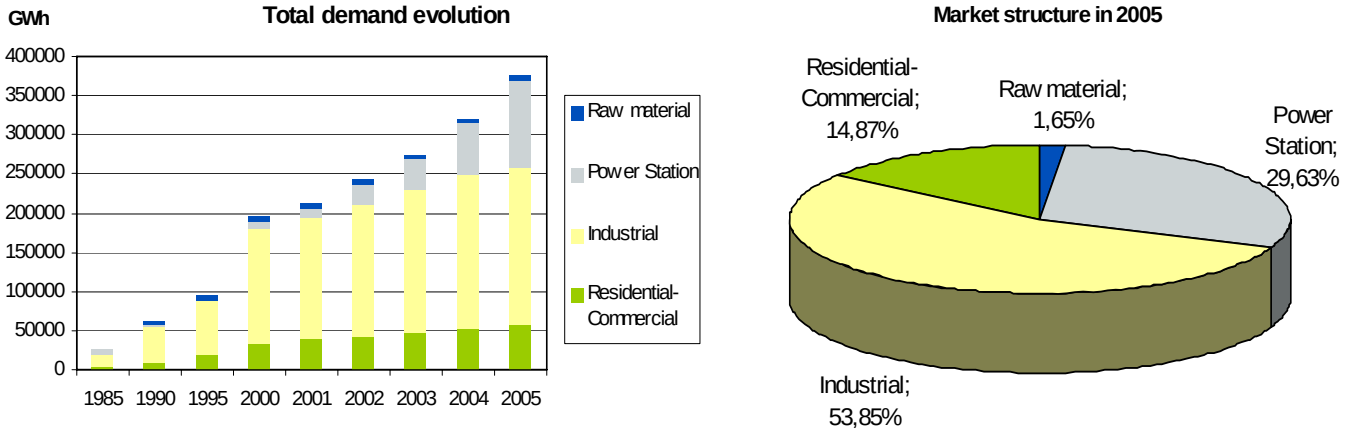
Regasificación y Equipos S.A., Nexus Energía, S.A., Comercializadora de Gas Extremadura, Liquid Natural Gaz, S.L., Centrica Energía, S.L. Sociedad Unipersonal and Multiservicios Tecnológicos, S.A.

Eighteen of them were supplying gas in the Spanish market.

- ***gas fired power plants***
- ***the households and small commercial sector (e.g 5000 m³/year and under)***
- ***in the medium sized industrial and commercial sector (e.g. up to 1 Mm³/yr)***
- ***large and very large industrial customers (above 1 Mm³ /year)***

Consumption of natural gas by sectors:

- Residential-commercial sector: 14.9%
- Industrial sector: 53.8%
- Use of natural gas as raw material: 1.7%
- Electrical generation (combined cycles and bi-propellant plants): 29.6%



Source: SEDIGAS

The figure below shows, once again, consumption in the Spanish market in 2005, but with different criteria for the itemization. In this case, consumption is shown broken down by levels of pressure and consumption, according to the different tariff groups:

Grupos	Suministros en el año 2005. Periodo de facturación del 1/01/05 al 28/02/06		
	Consumo	Consumidores promedio	Consumo / cliente
	GWh	Nº	MWh/cliente
Total Grupo 4	14.583	34	435.300
401	4.514	24	188.071
402	10.069	10	1.059.879
Total Grupo 3	57.219	5.816.101	10
301	8.061	2.621.066	3
302	31.455	3.144.155	10
303	1.282	18.939	68
304	16.421	31.941	514
Total Grupo 2E	8.920	1.329	6.715
221	82,67	269	307
222	1.385	669	2.071
223	4.133	342	12.084
224	2.225	44	50.577
225	1.095	5	219.008
226			
Total Grupo 2	155.205	3.836	40.465
201	137	501	274
202	2.787	1.295	2.153
203	14.933	1.152	12.962
204	34.724	575	60.390
205	59.927	282	212.506
206	42.697	31	1.377.315
Total Grupo 1	126.016	82	1.536.782
101	1.323	14	94.467
102	19.399	34	570.080
103	105.294	35	3.052.012
Total MP	6.199	3	2.479.524
Total canalizado	368.142	5.821.383	63
GNL plantas satélite liberalizado	8.744		
Exportaciones*	251	2	125.448
TOTAL	377.137	5.821.385	63

*Excluido tránsito a Portugal

Groups *Consumption* *Customers* *Consumption/customer*

Where the different groups have the following meanings:

Group 4: Industrial consumers of natural gas on an interruptible basis.

- 401: Consumers connected to a gas pipeline with design pressure above 4 bar and below or equal to 60 bar
- 402: Consumers connected to a gas pipeline with a design pressure above 60 bars.

Group 3: Consumers connected to a gas pipeline with design pressure below or equal to 4 bars.

- 301: Consumption equal to or below 5,000 kWh/year.
- 302: Consumption above 5,000kWh/year and equal to or below 50,000 kWh/year.
- 303: Consumption above 50,000 kWh/year and equal to or below 100,000 kWh/ year.
- 304: Consumption above 100.000 kWh/ year.

Group 2: Consumers connected to a gas pipeline with design pressure above 4 bars and equal to or below 60 bars.

- 201: Consumption equal to or below 500,000 kWh/ year.
- 202: Consumption above a 500,000 kWh/ year and equal to or below 5,000,000 kWh/ year.
- 203: Consumption above 5,000,000 kWh/ year and equal to or below 30,000,000 kWh/ year.
- 204: Consumption above 30,000,000 kWh/ year and equal to or below 100,000,000 kWh/ year.
- 205: Consumption above 100,000,000 kWh/ year and equal to or below 500,000,000 kWh/ year.
- 206: Consumption above 500,000,000 kWh/year.

Group 2E: Consumers connected to a gas pipeline with design pressure below 4 bars but with annual consumption equal to or above 200,000 kWh/ year

- 221: Consumption and equal to or below 500,000 kWh/ year.
- 222: Consumption above 500,000 kWh/ year and equal to or below 5,000,000 kWh/ year.
- 223: Consumption above 5,000,000 kWh/ year and equal to or below 30,000,000 kWh/ year.
- 224: Consumption above 30,000,000 kWh/ year and equal to or below 100,000,000 kWh/year.
- 225: Consumption above 100,000,000 kWh/ year and equal to or below 500,000,000 kWh/ year.
- 226: Consumption above 500,000,000 kWh/ year.

Group 1: Consumers connected to a gas pipeline with maximum design pressure above 60 bars

- 101: Consumption equal to or below 200,000,000 kWh/year.

- 102: Consumption above 200,000,000 kWh/ year and equal to or below 1,000,000,000 kWh/year.
- 103: Consumption above 1,000,000,000 kWh/ year.

RM: Raw material

LNG satellite plants: Liquid natural gas for supply to satellite plants

The number of active companies with a market share of above 5% and the share of the top three suppliers in each segment of the market should be identified and the penetration of new non-national companies assessed including the extent to which this is through either organic growth or through acquisition.

The list below shows the market shares of the different company groups in 2005, based on sales volumes to final customers, with a distinction between the deregulated market and the regulated market.

Regulated market:

1.	Grupo Gas Natural	82.1%
2.	Grupo Naturcorp	10.9%
3.	Grupo Endesa	6.4%
4.	Others	0.6%

Deregulated market:

1.	Grupo Gas Natural	47.6%
2.	Iberdrola	16.2%
3.	Unión Fenosa	10.3%
4.	BP	6.5%
5.	Endesa	6.0%
6.	Others	13.4%

It can be said that the growth in the market of all new companies and entrepreneurial groups is generally due to their own efforts at winning new customers, or already existing customers that had been supplied through the regulated market.

The exception is Naturcorp, an entrepreneurial group that has achieved consolidation through acquisition of its capital by Hidrocantábrico, which in turn integrated into Naturcorp its own gas subsidiaries, Gas de Asturias and Gas Figueres.

As for non-Spanish companies, mention should be made in the deregulated market of BP which as a share of 6.4%, Shell with a share of 3.8%, and Gaz de France, with a share of 0.7% of the market. Further, significant shares are held by foreign companies in the equity of gas companies operating in the Spanish market:

- ENI: holds 50% of the capital of Unión Fenosa Gas,
- EDP-Electricidade de Portugal, S.A.: holds 95.7% of the capital of Hidrocantábrico, the company that holds a majority share in Naturcorp.
- TOTAL: holds 36.97% of the capital of Cepsa.

The report should identify the number of suppliers without any affiliate connection to either TSOs or DSOs in the Member State concerned that have entered the market since the introduction of competition.

Companies with significant operations in both the deregulated and the regulated markets through legally separated distribution companies are Gas Natural, Endesa, Naturcorp and the tiny Comercializadora de Gas de Extremadura.

Mention should also be made to some companies operating in the deregulated market and in other regulated activities, such as Gas Natural (secondary gas pipelines) Iberdrola (regasification plant in Bilbao and Sagunto), Naturcorp (transport networks and regasification plant in Bilbao), Endesa (regasification plant in Sagunto and Mugardos), Unión Fenosa (regasification plant in Sagunto and Mugardos) and BP (regasification plant in Bilbao and 5% of Enagas).

The following marketing companies have no operations in the activities of transport or distribution: Shell, Gaz de France, Incogas, Cepsa, Nexus, Electrabel and Regasificación y Equipos.

The report should also set out the extent of integration between gas producers and importers and suppliers in the market.

Leaving aside an analysis of domestic production (0.15% of total procurements in 2005), it can be said that there is a great correlation between shares of imports and shares of supply of different agents, given that they generally go directly to international markets to obtain stocks of the natural gas necessary to supply their customers. Nevertheless, there are small differences in the buying and selling of natural gas in the system between agents. For example, the agent with the largest market share, Gas Natural, usually has a bigger percentage of imports than its market share, given that it sells gas to other marketing firms.

Estimates of customers switching and renegotiating (by volume and/or metering points) for the specified segment of the market should be provided both for the most recent 12 month period and cumulatively since the opening of the market.

There is no available data for customers switching. Agents report on the number of new clients they supply, but they do not specify if these clients imply a switch of supplier or are new consumers.

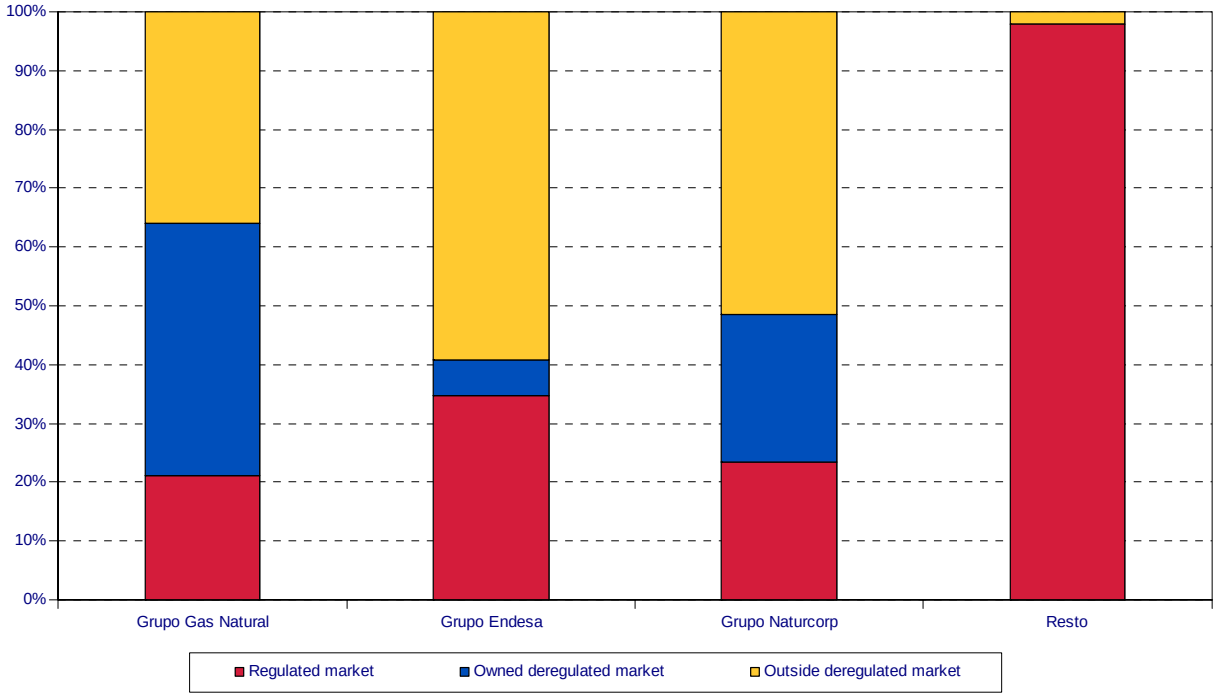
However, in the tables below, for the market in 2005, it is established customer's loyalty. The first table shows the number of client supplied by a marketer owned by the distributor's group, and the number of client supplied by a newcomer. The second table shows the total market share supplied through the networks of different company groups, divided between shipments made by the company itself to the regulated market and shipments to the deregulated market, either by the marketer of the same company group or by the marketer of a different company group.

Distributors by group	Customers in deregulated market who choose as supplier the marketer owned by their distibution group		Customers in deregulated market who choose as supplier an outside marketer	
	Number of clients	*%*	*Number of clients*	*%*
Grupo Gas Natural	1.534.173	79,0%	408.367	21,0%
Grupo Endesa	37.266	78,9%	9.945	21,1%
Grupo Naturgas Energía	181.128	80,3%	44.338	19,7%
Otros	125	43,3%	164	56,7%
TOTAL	1.752.692	79,1%	462.814	20,9%

	Consumption in 2005									
	Total market (without GNL)						**Loyal market**		**Loss of market. Other marketers**	
Distributors and transporters by group from whose infrastructures the supply takes place	**Deregulated market**		**Regulated market**		**Total**					
	GWh	*% of liberalized market*	*GWh*	*% of the regulated market*	*GWh*	*%of total market*	*GWh*	*% of total billed consumption*	*GWh*	*% of total billed consumption*
Grupo Gas Natural	204.502	81,5%	50.032	81,5%	254.533	81,5%	160.933	63,2%	93.600	36,8%
Grupo Endesa	12.730	5,1%	4.004	6,5%	16.734	5,4%	4.569	27,3%	12.165	72,7%
Grupo Naturgas	33.717	13,4%	6.995	11,4%	40.712	13,0%	17.349	42,6%	23.363	57,4%
Resto	3	0,0%	383	0,6%	386	0,1%	385	99,7%	1	0,3%
TOTAL	**250.951**	100,0%	**61.414**	100,0%	**312.365**	100,0%	**183.236**	**58,7%**	**129.129**	**41,3%**

As an example, we shall interpret the results for Gas Natural in the second table. Here, 20% of shipments made through the networks of the group were destined for the regulated market, (50,032 of 254,533 GWh), while the remaining 80%, 204,502 GWh, were for the deregulated market. Of these 204,502 GWh, 63.2% was supplied by marketers of the same group, while the remaining 36.8% was for marketers that belonged to other entrepreneurial groups.

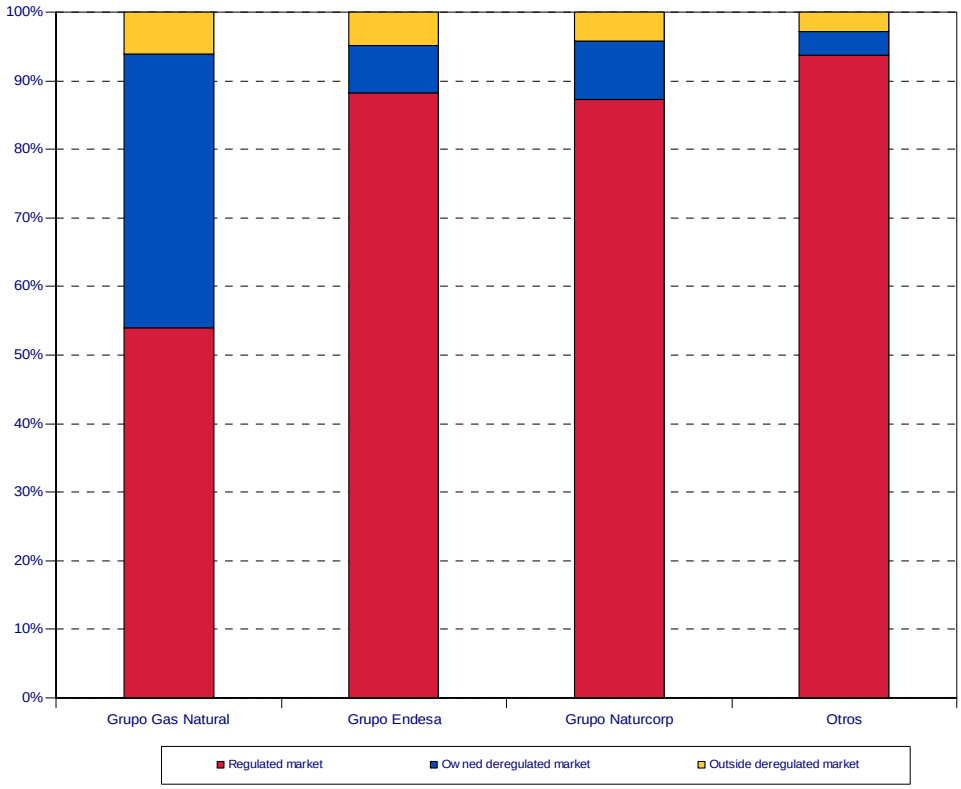
Comercialisation structure in final market by billed consumption



Specific mention should be made, owing to its particular nature, of the result of loyalty efforts in the case of tariff group 3, the group that generally contains consumption in the household-commercial sector. The table and figure below show that the percentage of household-commercial customers that have decided to buy gas on the deregulated market is much lower. Otherwise, the degree of loyalty of consumers is much higher because, those deciding to change to the deregulated market do so, generally, through the marketer company of the same group of companies.

Distributors and transporters by group from whose infrastructures the supply takes place	Group 3 — Consumption in 2005 — Total market (without GNL) — Deregulated market — GWh	Deregulated market — % del mercado liberalizado	Regulated market — GWh	Regulated market — % del mercado regulado	Total — GWh	Total — % sobre mercado total	Loyal market — GWh	Loyal market — % of total billed consumption	Loss of market. Other marketers — GWh	Loss of market. Other marketers — % of total billed consumption
Grupo Gas Natural	22.027	95,0%	25.850	75,9%	47.878	83,7%	44.978	93,9%	2.900	6,1%
Grupo Endesa	393	1,7%	2.965	8,7%	3.357	5,9%	3.197	95,2%	160	4,8%
Grupo Naturgas	758	3,3%	5.185	15,2%	5.943	10,4%	5.697	95,9%	245	4,1%
Otros	3	0,0%	39	0,1%	41	0,1%	40	97,2%	1	2,8%
TOTAL	**23.180**	**100,0%**	**34.039**	**100,0%**	**57.219**	**100,0%**	**53.912**	**94,2%**	**3.307**	**5,8%**

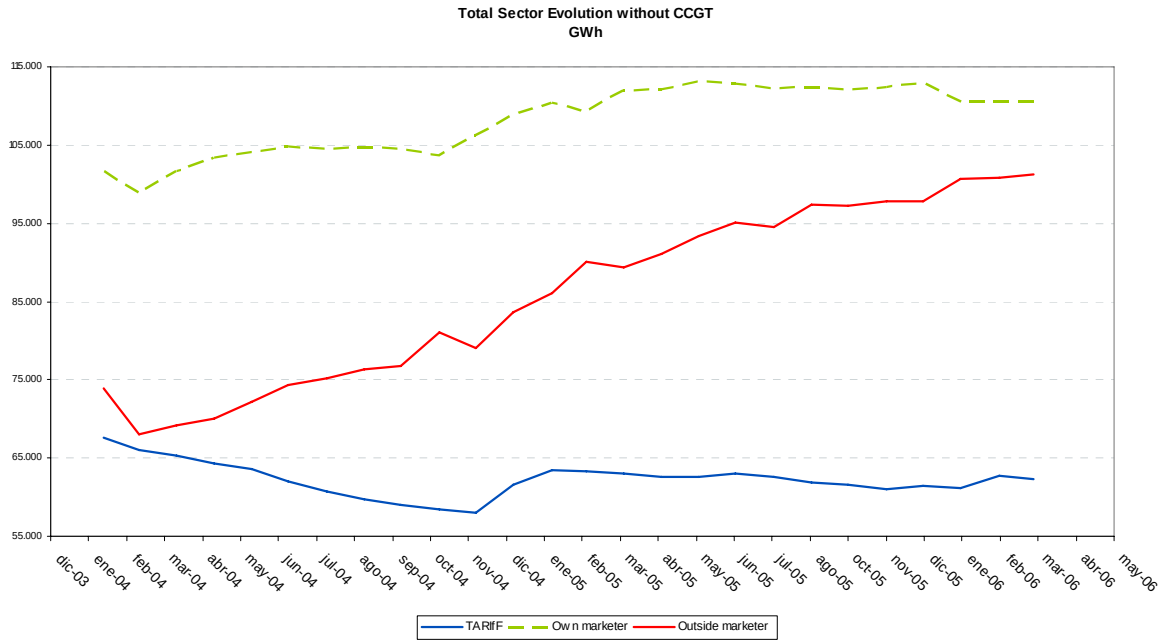
Comercialisatión structure in final market by billed consumption



The following table and chart shows the evolution of the market deregulation since February 2004. One can see the progressive increase of the deregulated market

proportion supplied by companies that do not belong to the group of the distributor that had been making shipments at tariff, which may suggest a higher mobility and rate of change in consumers.

GWh	Total Sector without CCGT (without GNL)				
Month	marketer from distributor's company	Newcomers	Total free market	Full tariff	Total Tariff + Free market
feb-04	101.630	73.886	175.515	67.565	243.080
mar-04	98.833	68.052	166.885	65.962	232.847
abr-04	101.617	69.134	170.750	65.296	236.047
may-04	103.400	70.005	173.405	64.374	237.778
jun-04	104.173	72.237	176.410	63.644	240.054
jul-04	104.772	74.286	179.058	62.012	241.069
ago-04	104.539	75.130	179.670	60.709	240.378
sep-04	104.692	76.270	180.962	59.767	240.729
oct-04	104.486	76.799	181.284	59.063	240.347
nov-04	103.718	81.060	184.779	58.480	243.259
dic-04	106.266	79.028	185.294	57.970	243.264
ene-05	108.830	83.708	192.538	61.614	254.152
feb-05	110.417	86.093	196.510	63.439	259.949
mar-05	109.266	90.111	199.377	63.339	262.716
abr-05	112.039	89.360	201.399	63.070	264.469
may-05	112.192	91.067	203.260	62.561	265.821
jun-05	113.107	93.393	206.500	62.654	269.154
jul-05	112.805	95.070	207.876	63.012	270.888
ago-05	112.331	94.593	206.924	62.579	269.503
sep-05	112.460	97.457	209.917	61.827	271.745
oct-05	112.188	97.242	209.430	61.529	270.958
nov-05	112.377	97.746	210.123	61.054	271.177
dic-05	112.962	97.835	210.798	61.505	272.302
ene-06	110.597	100.644	211.241	61.178	272.419
feb-06	110.579	100.882	211.461	62.685	274.147
mar-06	110.584	101.227	211.811	62.350	274.162



The report should also include information about switching procedures that are into force (maximum delay to switch; switching rate; charges; etc).

The procedure for customer change is regulated under Royal Decree 1434/2002 of 27 December. The information required about it was explained in last year Spanish annual report to the European Commission, and there have been no changes since then.

Estimates of the extent to which the retail market is foreclosed by long-term contracts.

Because the commercialisation of natural gas has been deregulated and can be practised by agents freely, precise information is not available on the gas supply contracts signed with consumers. However, in 2005 the duration of signed contracts, in so far as information is available, does not generally exceed two years.

Information is provided on the proportion of long term capacity access contracts– with a more than two year duration – which will not necessarily match with supply contracts length.

At the end of 2005, long term capacity contracted for supply the deregulated market at different entry points was as follows:

- In regasification plants, in commercial operation: about 67% of capacity contracted.
- At the entry point of Larrau: about 95% of the capacity reserved.
- At the entry point of Tarifa: about 95% of the capacity reserved.

Evidence of anti-competitive bundling (e.g., refusal to provide L gas unless the customer also contracts for H gas; refusal to provide network capacity separately from gas), discriminatory discounting or any other discriminatory practice.

In 2005 no practices restricting competition have been detected related to the joint offer of products and/or services. Actions carried out by National Energy Commission regarding to this issue were described in last year Spanish annual report to the European Commission.

Also include information on the level of retail prices (with reference to Eurostat figures if necessary) for the types of clients referred to in 4.1.3. Divide them as follows:

- ***Network costs***
- ***Taxes as part of network costs***
- ***Profit margin of supply operation***
- ***Taxes***

Please indicate whether the data refers to market prices or complete tariffs for regulated final customers.

Below, details are provided on the hypotheses included in the calculation of the final price by components of consumer types of natural gas as defined in the questionnaire. The timeframe for these prices is the year 2005.

- The cost of energy is calculated on the basis of the costs of raw materials as published quarterly by the Ministry. To calculate the cost of raw material for 2005, the different levels published in 2005 have been weighted according to the number

of days they were in effect. This price has been modified by the pertinent losses as specified in Order ITC/102/2005.

- Network costs have been calculated by applying the tolls published in Order ITC/103/2005 for regasification, transport and distribution and underground storage to each consumer type. From the total network costs, a calculation has been made of levies included in network costs, namely, the CNE levy, the fee of the System Technical Manager, the provisional re-routing owning to the settlement of 2004, and the imbalance in revenues of 2002 and 2003.

- An entry load factor of 85% has been estimated for billing the regasification toll and the capacity reserve term of the transport and distribution toll.

- Billing of underground storage has assumed strategic storage of 20 days for each of the consumer types. For the household type, seasonal storage of 19.4% of firm annual consumption has also been included.

- The item "*levies included in network costs*" is obtained by deducting from the total amount of tolls and levies the percentage reflecting other costs, as such as the CNE levy, and the fee of the System Technical Manager. The percentage to deduct, in every case, has been taken from the provisional cost table of 2005.

- Calculation of the final price did not include the supply profit margin. Nevertheless, if each of the prices calculated is compared by cost aggregation – tolls, levies, Raw material unit price and losses – with the price resulting from the application of sales tariffs, the result for the D3 consumer would be about 5%, for I1 it would be 18% and for the consumer type I4-1 the margin would be 2%.

- The tax item is a result of applying 16% for VAT to the final price before taxes as calculated for the aggregation of applicable tolls and levies, losses and Raw material unit price.

Final consumer price by type of components (cent€/kWh). 2005

Type Consumers	Cost of Energy (1)	Regulatory Costs	Network Costs	Taxes	Total Prices (cent€/kWh)
D3	1,48	0,01	2,21	0,59	4,29
I1	1,47	0,00	1,14	0,42	3,03
I4-1	1,47	0,00	0,26	0,28	2,00

Note: It should be pointed out that consumer type I1 as defined in this questionnaire is not representative of industrial consumption in Spain. Specifically, consumers included in this toll to which this consumer type (toll 2.1) would apply, according to the characteristics defined in the questionnaire represent 14% of the number of total consumers in the tariff group to which the type belongs –customers connected at pressure levels between 4 and 60 bars), and solely 0.13% of the consumption of this tariff group.

5 Security of Supply

5.1 Electricity [Article 4][8]

General outline

Article 4 of the Spanish Electric Power Act refers to electrical planning, which shall be indicative, except in relation to transport installations, and shall be carried out by the government with the participation of the Autonomous Communities. Planning shall be mandatory in the case of transport installations.

Furthermore, a planning procedure was established in Royal Decree 1955/2000, leading in 2002 to the drawing up of a Planning Document for the 2002 – 2012 period. The planning process for electricity and gas transportation infrastructures is being revised for its forthcoming update by the Ministry of Industry, Tourism and Trade.

In addition, as a result of concern regarding security of supply, the National Energy Commission has drawn up, on an annual basis, a study for short term electrical coverage. This is a specific report on demand for and coverage of electricity and gas over a five year timescale.

Current peak electrical demand levels (MW) and outlook for the next three years (e.g. 2006 – 08)

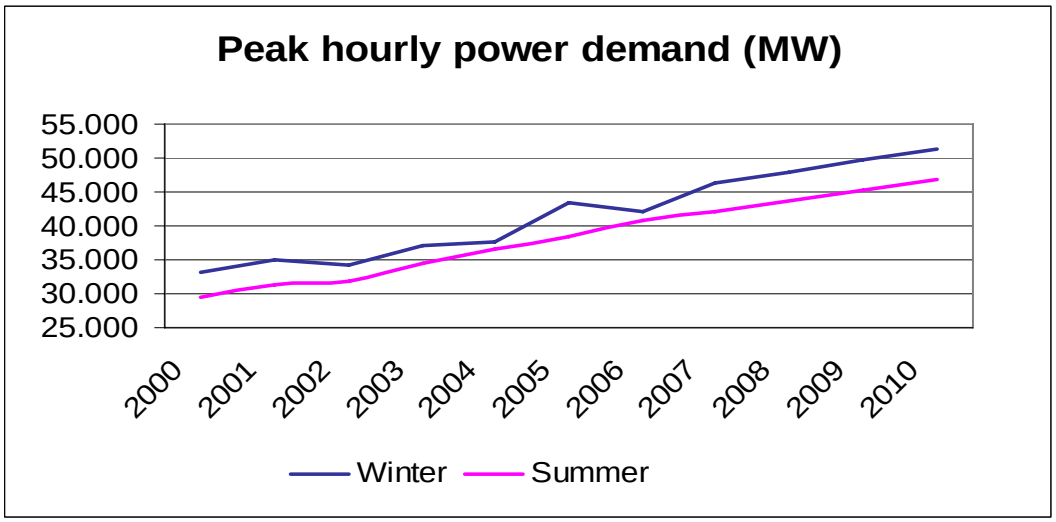
Energy demand reports constant annual growth. The average increase in recent years stands at 5%, considering both mainland and ex-mainland demand. During 2005, gross domestic demand virtually reached 260 TWh.

Demand for electrical power has also increased gradually. The peak demand for maximum power was recorded in winter 2004/2005: 43,378 MW. It is important to highlight the

[8] This section may make reference to supply demand forecasts compiled by TSOs where appropriate

increased demand for power in the summer months, 40,600 MW being reached during summer 2006.

The evolution of peak hourly power demand, from 2000 to 2005, including the forecast to 2010, is as follows:



Current level of power generation capacity

At the end of 2005, power capacity in Spain stood at 77,917 MW, according to figures of the System Operator[9] and the National Energy Commission[10]. The breakdown of this power by technologies is as follows:

[9] Data on ordinary regime.
[10] Data on special regime.

Potencia instalada (MW)			
Tecnología	**Peninsular**	**Extrapeninsular**	**Total nacional**
Hidráulica	16.657	1	16.658
Nuclear	7.876		7.876
Carbón	11.424	510	11.934
Fuel / Gas	6.647	2.526	9.173
Ciclo combinado	12.225	910	13.135
Total Régimen Ordinario	**54.829**	**3.947**	**58.776**
Cogeneración	5.750	39	5.789
Eólica	9.866	134	10.000
Mini hidráulica	1.703	0	1.704
Resto	1.573	75	1.649
Total Régimen Especial	**18.892**	**249**	**19.141**
Total	**73.721**	**4.196**	**77.917**

Forecast of investments in generation for the next three years:

— ***Authorised***

— ***Currently under construction***

Investments in new capacity in the ordinary regime are expected to be in combined cycle power plants.

From 2005 on, already authorised combined cycle power plants comprise a total of 11,800 MW split over the following three-year period in the following way:

2006	2007	2008
4,500 MW	5,300 MW	2,000 MW

For virtually all this future power in combined cycles, contracts are signed for access to the gas network. These two aspects – the holding of administrative permits and access contracts – allow a certain degree of assurance that these new stations will be incorporated to the domestic generation system.

The National Energy Commission monitors combined cycle installations under construction. By this means, it has learned that the construction of the sets planned for

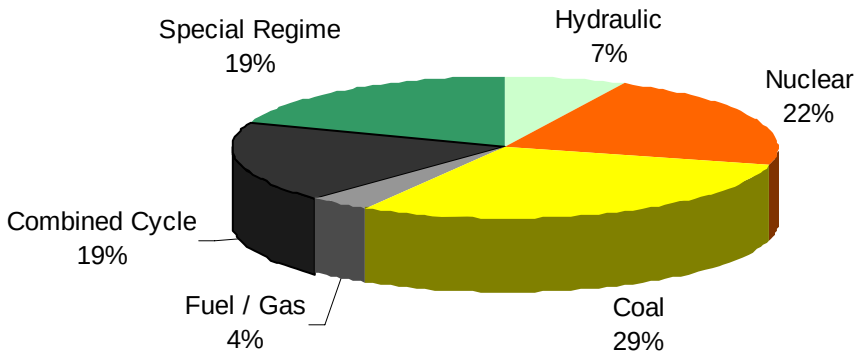
2005 is continuing as planned, while the four sets planned for start-up on 2006 are delayed. There is an increase in delays in 2007, the number of sets being delayed (between 5 days and 2 years) standing at 19.

There are also authorisations for generation installations on the islands and for special regime production installations (cogeneration, renewable energies and waste).

Current generation mix and outlook for development

During 2004, mainland electrical generation derived from the following fuels/technologies, as per the percentages displayed in the chart:

Mainland GenerationMix 2005



In the future, the proportion of coal-based generation is expected to decrease, due to the restrictions imposed by the Mining Plan, and fuel generation is also expected to fall. These decreases should be replaced with combined cycle natural gas power generation, which is more efficient and pollutes less. Furthermore, a gradual increase in special regime generation is expected.

Start-up of new projects and cancellation of equipment during 2004, including new power capacity from coal/fuel, gas, renewable energies, cogeneration and others.

During 2005, variation in power capacity on mainland Spain was positive, yielding a figure of more than 5,000 MW. 70% of this increase was due to the start-up of combined cycle plants, and 26% arose from the installation of new wind power.

The increase in power by technologies is as follows:

Increases in power in 2005	
Combined cycle	3,973 MW
Cogeneration	3 MW
Wind	1,482 MW
Mini hydroelectric	56 MW
Rest	124 MW
Total	5,638 MW

Outline of the functions of the regulator and other authorities:

- ***Criteria for authorisation of new projects and function in long term planning***

  The Spanish Electric Power Act stipulates that prior administrative authorisation is required for the construction of electricity production installations. The granting of this authorisation must be governed by the principles of objectivity, transparency and non-discrimination. Administrative permit applicants will have to provide evidence of the following:

  a) Energy efficiency, technical and safety conditions of the proposed installations.

  b) Proper compliance with conditions for environmental protection and minimising of environmental impacts.

  c) The particulars of the location for the installation.

  d) Their legal, technical and economic-financial capacity for the carrying-out of the project.

These administrative permits shall be granted by the competent Administration, subject to the concessions and authorisations which may be required pursuant to other provisions. Furthermore, all authorised electricity production installations must be recorded in the Registry of the Ministry, providing information on the conditions and power thereof.

It is also stipulated that production activity shall include the transformation of electricity and connection with the transport and distribution network.

Regulation of the procedure for granting permits to generation installations is set forth in Royal Decree 1955/2000, and shall be the competence of the State, provided that more than one Autonomous Community is affected. In this case, the National Energy Commission must issue a report on the installation. Otherwise – in other words, if the power plant does not affect more than one Autonomous Community - the pertinent Autonomous Government shall be responsible. Electrical generation through nuclear power plants is an exception, given that these plants are governed by a specific regulation.

Furthermore, in accordance with the type of plant and its power, it must comply with law in force regarding:

1. Environmental impact.
2. Integrated pollution prevention and control.
3. Trading of greenhouse effect gas emission rights.

It is important to note that the Electricity Sector Act stipulates that long term planning is indicative (except in relation to transport installations) and is effectuated by the State with the co-operation of the Autonomous Communities. The Act mentions that planning will have to refer to the forecast for electrical demand, the minimum power capacity that must be installed to cover the expected demand, the forecasts relating to transport and distribution installations, lines of action regarding service quality, energy saving and efficiency measures, evolution of market conditions and criteria for environmental protection.

Furthermore, on an annual basis this Commission draws up the Framework Report, which includes forecasts for the evolution in electricity and gas demand, and the situation and outlook in energy supply.

- ***Implicit and explicit incentives for construction of new capacity (e.g. power guarantee payments, premiums, balance mechanism designs)***

  The implicit incentive for installation of new power is the market price obtained from the sale of electricity production.

  The power guarantee payment (or capacity payment) is an explicit generation incentive. This payment completes the market price, remunerating the installation's fixed costs in accordance with availability, without considering its operation. The power guarantee is therefore a long-term indication for the installation of new generation.

  As far the special regime is concerned, there are special tariffs or premiums on market prices. The objective is for this regime to meet the targets laid down in the plan.

Progress of major infrastructure projects, in particular of the interconnections with Member States, including the regulatory framework in which they operate

The basic object of the Spanish Electric Power Act is threefold: guaranteeing the electricity supply, the quality of that supply, and ensuring the supply is offered at the lowest possible price, without overlooking the environment. The Act also stipulates that all consumers are entitled to the supply of electricity, nation-wide, under quality and safety requirements laid down by regulation.

Electrical planning for the electrical transport grid is carried out by the government, with the participation of the Autonomous Communities, with these objectives in mind, considering a timescale which is broad enough for them to be satisfied.

The basic principle under which the transport grid must operate is that of guaranteeing supply, at the lowest possible cost, without forgetting environmental protection. The

principles of objectivity, transparency and free competition, which are explicit in the regulation, must be employed by the Transport Grid Manager when deciding between the different options which arise in the course of its activities.

The electricity transport grid must therefore be conceived and planned in such a way that the continuity of supply is assured in the operation of the electrical system with the required level of quality.

The parameters whereby the state of the electrical system is supervised are basically: frequency, the node voltages and the load levels of the different components of the transport grid (lines, transformers and associated switchgear).

Under normal system operation, load levels should not exceed the nominal capacity of the transformers, nor the permanent thermal capacity of the lines defined for the different seasons of the year.

Furthermore, the system must maintain its control parameters within certain limits, even in the event of contingencies. The contingencies which must be taken into account in safety analyses are:

- The simple failure of any of the system components (criterion N-1).
- The simultaneous failure of two circuits of the double circuit lines which share supports over more than 30 km of their length.
- In special situations, when the testing of post-contingency operational measures requires an excessive period of time, the failure of the largest generation set in the area and its interconnection lines with the rest of the system must also be considered.

Planning of the transport grid is in accordance with three types of criteria: technical, economical and strategic, which are interrelated.

The object of the technical criteria is compliance with safety and reliability requirements for future grid configurations. These requirements must be consistent with the technical criteria set out in the system operation procedures.

The economic criteria allow for decision making between the different alternative options arising after the application of the technical criteria. The benefits of a particular action are evaluated in accordance with:

- More efficient management derived from:
  - Reducing transport losses.
  - Eliminating restrictions which could generate a higher global cost of the energy supplied.
  - The efficient incorporation of new generators to the system.
- More reliable and safer management keeping non-supplied energy to a minimum.

Strategic criteria comprise a set of general principles of a miscellaneous nature:

- Obligation to supply on the part of the distributors.
- Need to integrate environmental criteria in selecting developmental solutions, so keeping the global environmental impact to a minimum.
- Absence of capacity reserve in the electrical transport grid for generators.
- Co-ordinating the evolution of the transport grid with that of the distribution network and with the entry of new producers and consumers, with the aim of ensuring coherence in the development of the electrical system overall.
- Increase in international interconnection capacity.

The National Energy Commission draws up a Framework Report on an annual basis including forecasts on evolution in electricity demand and the situation and outlook for energy supply.

Said report includes the short-term forecasts shaping actions for the development of minimum infrastructures thought to be necessary to allow gas and electricity supply under appropriate quality and safety conditions.

Furthermore, the report explicitly identifies the areas of the electricity and gas system which might require high levels of investment due to the special development of demand at regional level or which could entail bottlenecks for the system in the mid-long term.

In addition, the National Energy Commission monitors the infrastructures referred to in the Framework Report. To this end, communication is held with the developers of said infrastructures.

- Since the 2002 Planning Document the objective is to promote "*explicitly the development of international interconnections especially those shaped towards fostering the single European market*".
- The plan is currently being revised.
- The National Energy Commission's Framework Report for 2004 addresses possible initiatives to be carried out to reinforce international interconnections.
- Creation of MIBEL: the intention is to increase interconnection capacity with Portugal.
- Intention of increasing interconnection capacity with France.

Outline of the processes in which the System Operator participates for the construction of new network installations and to what degree they are integrated with congestion management and the operation of the production market.

Article 34.1 of Spanish Electric Power Act 54/1997, of 27 November, provides that:

"1. The objective of the system operator, as supervisor of the technical management of the system, will be to guarantee the continuity and safety of the electrical supply and the correct co-ordination of the production and transport system.

Furthermore, article 22.7 of Royal Decree 5/2005, of 11 May, on urgent reforms for the promotion of productivity and to improve public contracting, which amends article 34.2 of the aforesaid Spanish Electric Power Act, includes the following amendments regarding the functions of the system operator:

"…..
d) Co-ordinate and modify, as the case may be, transport installation maintenance plans, in order to assure their compatibility with the generation set maintenance plans and assure

an appropriate position of availability on the grid which might guarantee the security of the system.
e) Set up and control reliability measures for the production and transport system, affecting any component in the electrical system which might be necessary, and manoeuvre plans for service replacement in the event of general failures in the electricity supply and co-ordinate and control the execution thereof.
f) Provide operating instructions for the transport grid, including international interconnections, for real time manoeuvres.
….
l) Provide instructions required for the correct operation of the production and transport in accordance with the reliability and security criteria established, and manage the system adjustment service markets which may be required for that purpose.
…"

These functions are also complemented by those set forth in article 30.2 of Royal Decree 2019/1997, of 26 December, organising and regulating the electricity production market, which include the following:

"…
g) Establishing, in conjunction with transport agents, producers and distributors, manoeuvre plans for replacing the service in the event of general failures in the electricity supply and controlling the execution thereof, affecting any component of the electrical system which may be necessary. The foregoing shall be carried out pursuant to the regulation established for that purpose, and, in the absence thereof, with generally accepted criteria known to agents, subsequently justifying its actions before the affected agents, the National Electrical System Commission and the competent Administration.
…"

Likewise, in Royal Decree 2019/1997, of 26 December, organising and regulating the electricity production market, article 31, on operation procedures, provides that:

"1. The system operator shall submit, for approval by the Ministry of Industry, Tourism and Trade, the operating procedures of a technical and instrumental nature which may be required for the proper technical management of the system, said Ministry handing down a decision following a report by the National Electrical System Commission.

2. Operating procedures will have to include at least the following aspects:

……
d) Analysis of security in short term coverage.
……
g) Operating information.
…….
h) System programming.
……
k) Operating conditions of the production and transport and quality, reliability and security criteria.
……

m) Management of each one of the complementary services.

n) Warning and emergency situations.
……"

These sections are taken up in different operating procedures, amongst which we may highlight the following:

P.O. 1.1 "Operating and security criteria for the operation of the electrical system", approved by Decision of 30 July 1998.

P.O.-1.2 "Admitted network load levels" approved by Decision of 30 July 1998.

P.O.-1.3 "Admitted network node voltages", approved by Decision of 30 July 1998.

P.O. 1.6 "Establishment of security plans for system operation", approved by Decision of 30 July 1998.

P.O. 2.2 "Forecast of coverage and analysis of security in the electrical system", approved by Decision of 17 March 2004.

P.O. 3.4 "Transport Grid maintenance program", approved by Decision of 17 March 2004

P.O.-4.0 "Management of International Interconnections" approved by Decision of 17 March 2004.

P.O. 6.1 "Operating measures to assure coverage of demand in warning and emergency situations", approved by Decision of 31 October 2002

P.O.-7.4 "Transport Grid Voltage Control complementary service"

P.O.-8.1 "Grid managed by the System Operator", approved by Decision of 30 July 1998.

P.O.-8.2 "Network operation", approved by Decision of 18 December 1998.

P.O.-8.3 "Voltage control" approved by Decision of 18 December 1998.

P.O.-11.1 "General protection criteria in the managed grid" approved by Decision of 24 June 1999.

P.O.-11.2 "Criteria for installation and operation of automatisms" approved by Decision of 24 June 1999.

P.O.-11.3 "Analysis and monitoring of the operation of system protection and automatisms", approved by Decision of 24 June 1999.

Revenues from transport and distribution activities are included in the regulated revenues of the electricity sector and the remuneration by company is established, in order to subsequently finance from these items the future projects for the construction of new installations.

6.

Number of supply cuts due to non-payment during 2004.

The article 85 of the Royal Decree 1955/2000 of 1st December, concerning *"Cutting off fixed-rate supply due to non-payment",* establishes the following:

1. *The distributor may cut off supply to private fixed-rate consumers when at least two months pass since it is proved that payment was requested from them, without the consumer having made this payment. For this purpose, the request shall be sent to the address that appears in the fixed-rate supply contract for the purposes of notification, by any means that provides proof of reception by the interested party or their representative and the date, identity and contents thereof. The distributor is obliged to keep in their possession said proof of the warning sent. Should the warning be rejected, the circumstances of the attempt to warn the customer shall be specified and the proceedings shall be considered to have been begun. This warning shall refer to the procedure to cut off supply due to non-payment, specifying the date on which it shall be disconnected should the appropriate amounts not be paid beforehand.*
2. *In the case of the Public Administrations, the distributor may cut off the supply due to non-payment provided that this service has not been declared essential if four months pass since the first payment request was made without this having been fulfilled.*
3. *To be able to cut off the supply due to non-payment, the distributor may not set this date for a public holiday nor days on which, for any reason, no commercial nor technical customer service is provided in order to restore the supply, nor on the day before the aforementioned days.*
4. *Once the supply has been cut off, this shall be restored at the most on the day following payment of the appropriate amount, the accrued interest in accordance with the previous article and of the authorised amount required to reconnect the supply.*

In addition, article 86 of the aforementioned Royal Decree on *"Cutting off supply to qualified consumers and persons"* lays down that:

1. *Cutting off energy supply to qualified consumers shall be subject to the agreed guaranteed supply and suspension conditions.*

   The general contract conditions for the electricity supply between qualified consumers and suppliers and the existence of special agreements that may determine the guaranteed supply shall be reported to the Directorate General for Energy and Mining Policy, the National Energy Board and the Autonomous Regions in those cases where the supplies are provided exclusively in the territorial area thereof.

2. *When a supply contract between a consumer and a dealer is cancelled early, the dealer may submit a request to the distributor for the supply to be cut off. The distributor shall cut off the supply if five working days pass after this notification and the dealer does not indicate otherwise or the consumer does not prove that they have signed a new contract with another dealer.*

   In these cases, when the electricity dealer does not notify the distributor of the termination of the supply contract, the distributor shall be exempt from any responsibility regarding the energy supplied to the consumer.

Bearing in mind all applicable legislation, it is worth mentioning that the number of cuts in supply due to non-payment during 2005 carried out by distributors amounted to 595,762.

5.2 Gas [Article 5]

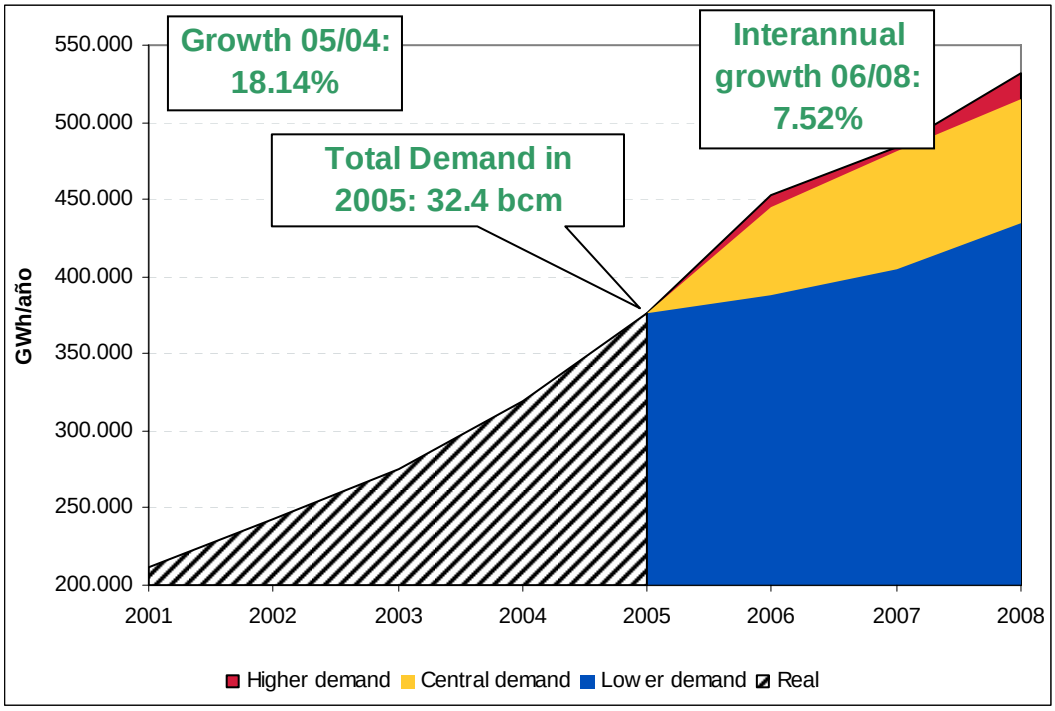
A general description of the ongoing supply-demand situation with the following indicators included, reference should be made to TSO projections where available:

- ***Current levels of gas consumption (bcm) and expectations for the next three years (i.e. 2005-08)***

Natural gas consumption in 2005 was 377,137 GWh (32.4 bcm), 18.14% higher than demand in 2004. The demand forecasts for 2006-2008 is the following:

TOTAL annual demand (bcm)	2006	2007	2008	Average increase [%]
Higher Scenario	38,9	41,6	45,8	8,50%
Central Scenario	38,3	41,4	44,2	7,52%
Lower Scenario	33,4	34,8	37,4	5,75%

Source: National Energy Commission



- ***Currently available production and import capacity (bcm)***

A) Capacity of the regasification plants

Regasification plant	**Storage capacity (bcm)**	**Vaporisation capacity (bcm/year)**	**Maximum docking capacity m^3 LNG**
Barcelona	0.23	13.14	1x 80,000 1x140,000
Huelva	0.18	9.20	140,000
Cartagena	0.17	7.88	140,000
Bilbao	0.18	7.01	140,000
TOTAL	**0.58**	**37.23**	**560,000**

B) Capacity of international connections by gas pipeline

Location	Transmission capacity bcm	Peak traffic in 2005 Thousand m^3/day
Larrau	2.42	7,308.68
Irún (exit towards France)	< 0.38(1)	0.00
Tarifa (Spain & Portugal)	9.51	31,556.32
Badajoz (exit towards Portugal)	Not available	Not available
Tuy (entry towards Spain)	0.56	859.85
NET ENTRIES TO THE SPANISH SYSTEM	12.87	39,724.85

(1) Capacity depending on season. It has been evaluated considering 30 bar at the French Border and does not imply a feasible transmission in the connection French part.

C) Production capacity of domestic fields

Solely two natural gas fields are currently in production in Spain, Poseidón, which is offshore, in the Gulf of Cadiz and Marismas, onshore in the Guadalquivir valley. The other gas fields in operation in 2004 (Palancares, in the Guadalquivir valley as well) is depleted. Tests are being carried out to use Marismas and Palancares fields as underground storage.

Production levels at Marismas and Poseidon are declining, evidenced by the reduction in peak production capacity (and annual production) against former years. The fields are expected to be totally exhausted by the end of 2006.

Field	Production capacity(1) (bcm)
Marismas (Guadalquivir valley)	0.05
Poseidón (Gulf of Cadiz)	0.53
TOTAL	**0.58**

(1) Maximum production capacity reached in previous years.

- ***Forthcoming production and import investment for the next three years:***
  - ***authorised***

o ***actually in process of construction***

No investments in new natural gas production fields are expected over the next three years.

The new projects for increasing entry capacity over the next three years are specified below. All of them are included in the Ministry of Industry, Tourism and Trade planning document. Those in which construction is under way are indicated:

A) Regasification plants

Transmission Operator	New infrastructures	Current new infrastructures state
2006		
ENAGAS	**Huelva regasification plant**	
	4th storage tank with 0.087 bcm capacity. Final capacity of 0.268 bcm.	In construction
	Increase in emission capacity to 72 bar network to a final capacity of 10.51 bcm/year.	In operation
	Barcelona regasification plant	
	Increase in emission capacity to 72 bar network to a final capacity of 14.45 bcm/year.	In operation
	Cartagena regasification plant	
	Increase in emission capacity to 72 bar network to a final capacity of 9.2 bcm/year.	In operation
	Increase in emission capacity to 72 bar network to a final capacity of 10.51 bcm/year.	In construction
SAGGAS	**Sagunto regasification plant**	
	New regasification plant with a emission capacity to 72 bar of 6.6 bcm and two storage tank with 0.087 capacity each one (0.16 of total storage capacity)	In operation
2007		
ENAGAS	**Huelva**	
	Increase in emission capacity to 72 bar network to a final capacity of 11.83 bcm/year.	In construction
	Barcelona	
	6th storage tank with 0.087 bcm capacity. Final capacity of 0.32 bcm.	In construction
SAGGAS	**Sagunto**	
	Increase in emission capacity to 72 bar network to a final capacity of 8.76 bcm/year.	In project
REGANOSA	**Mugardos**	

	New regasification plant with a emission capacity to 72 bar of 3.6 bcm and two storage tank with 0.087 capacity each one (0.16 of total storage capacity)	In construction
2008		
ENAGAS	**Cartagena**	
	4th storage tank with 0.087 bcm capacity. Final capacity of 0.36 bcm.	In construction
	Increase in emission capacity to 72 bar network to a final capacity of 11.83 bcm/year.	In project
BBG	**Bilbao**	
	3th storage tank with 0.087 bcm capacity. Final capacity of 0.26 bcm.	In project
	Increase in emission capacity to 72 bar network to a final capacity of 10.51 bcm/year.	In project

B) Interconnections by gas pipeline

- Capacity Increase of France – Spain connection at Irún (Sociedad de Gas de Euskadi) It is expected for 2007 the start up of the new Spanish Vergara-Irún pipeline which would allow an increase of Irun interconnection capacity. The final capacity of this interconnection is nor available and depends, as well, of French infrastructure developments.

- Larrau connection (Enagas) The increase in interconnection capacity via Larrau is associated with the construction of the Navarra compression station (formerly known as Lumbier), which according to its developer should be ready on 31/12/2008. Transportation capacity via this interconnection could be increased to 4.5 bcm/year.

- Medgaz connection According to the information at the CNE disposal, this project is expected to start up, commercially, at the end of 2008 or in early 2009. The initial capacity of this infrastructure will be 8 bcm/year, although by 2015 it is expected to be increased to 16 bcm/year.

A description of the role of regulatory or other authorities should also be included as described in Directive 2004/67 specifically:

- ***requirements relating to supplier of last resort***

Several regulatory Authorities and Bodies take part in determining and supervising security of supply in different ways.

We may highlight the Gas System Planning procedure, responsibility of the Government, in which the Autonomous Communities, the Technical System Manager, other system agents, transmission operators, distributors and marketers, and CNE, also take part. Planning is in general indicative, except regarding to the basic network gas pipelines, the calculation of the total regasification of liquefied natural gas, needed to supply the gas system, hydrocarbon strategic reserve storage plants and the establishing of general criteria for setting up retail oil product supply installations, in which case it shall be on a mandatory and minimum enforceable basis for guaranteed supply of hydrocarbons. The document deals, *inter alia*, with the following areas:

- Demand forecast for oil and natural gas derivative products over the stipulated period (ten years).
- Development forecast of the basic natural gas transportation network and total liquefied natural gas regasification capacity required to supply gas to the gas system, with the aim of meeting demand with gas infrastructure optimisation criteria nation-wide.
- Defining of priority gasification areas, network expansion and stages of execution, with the aim of assuring uniform development in the gas system nation-wide.
- Forecasts relating to gas fuel transmission and storage installations, and liquefy natural gas reception and regasification plants. It assures gas system stability and regular and continuous gas supplies.
- Environmental protection criteria are established.

Furthermore, it is important to note, in relation with security of supply, that the Law establishes for all agents incorporating gas to the system:

- The obligation of maintaining a minimum security stocks of 35 days the firm sales to final consumers.
- The obligation of diversifying supplies, so that the proportion thereof deriving from a single country should not exceed 60%. Supplies used for the consumption of installations with alternative fuels, and under certain circumstances, are exempted from

this requirement, so as not to hinder the entry of new agents and also taking into account global diversification conditions of all imports.

The Corporación de Reservas Estratégicas de Productos Petrolíferos (*Oil Products Strategic Reserves Corporation*), CORES, is responsible for the compliance with these conditions.

This Corporation also performs a study, updated on an annual basis, analysing electrical demand and the coverage thereof, in the short term, under a five-year timescale. This report, which it's not a substitute for the Government Planning, but a complement, consist in a detailed analysis of foreseen demand and supply, and the adequacy of infrastructures to assure that demand will be covered over the next five years.

Regarding to last resort supplier, it should be noted that consumers with a yearly consumption over 100 GWh who choose to be supplied via the deregulated market currently have the possibility of returning to the regulated market. No prior conditions are established to return to the regulated market, except that consumers have to make the application of change some time in advance.

Once they have returned to the regulated market they must remind there, at least for 1 year.

- ***incentives to increase production/import capacity or any type***

The promotion of an increase in the entry capacity to the system is secured via the central planning and the application of an appropriate rate of return for the infrastructures, which is known before undertaking the investment.

- ***Requirements relating to the availability of storage to meet public service obligations***

According to the provisions set up by the Hydrocarbons Act 34/1998, of 7 October, implemented by Royal Decree 1716/2004, of 23 July, regarding public service obligation in

relation to strategic storage, all agents incorporating gas to the system must maintain minimum security stocks equivalent to 35 days of sales or final consumption.

According to the latest analysis made by this Commission, in 2006 the maximum system storage capacity, including underground storage, LNG and gas pipeline stock, is equivalent to 35 days of average daily demand. Nevertheless, considering the use of underground storage facilities (which are filled in summer and emptied in winter) as operating and seasonal storage, it is very unlikely that the average annual gas storage level in the system could reach the amount laid down by law.

Finally the regulator should report on any progress in major infrastructure projects and in particular important interconnection projects between or within Member States, including the regulatory framework under which they will operate.

The current entry capacity and the degree of progress of the new infrastructure projects and new interconnection infrastructures with other countries have been specified in previous sections.

No particular access regime is contemplated for any of the new infrastructures, except for the Medgaz that could have total or partial exemption for some years; for the others, access of third parties shall be regulated in the same way as for the existing infrastructures.

6 Public Service Issues [Article 3(9) electricity and 3(6) gas]

Aspects regarding price regulation for users (electricity and gas)

In the electricity sector, all consumers have the possibility of continuing to receive their supply in the regulated market, through a distributor and at the full rate established for each customer. Nonetheless, the Act 24/2005 includes the cancellation of high-voltage electricity supply rates as from 1 January 2010.

The full rates applied in the regulated market are published on an annual basis by Royal Decree and are revised in accordance with the provisions of Royal Decree 1432/2002, which establishes the method to approve or change the average or reference electricity rate (please see point 3.1.3).

As regards the last resort supplier, at present the distributors are in charge of supplying customers in the regulated market.

The following table shows the percentage of customers in each segment, both domestic and other (commercial and industrial)[11] who receive their supply in the regulated market.

Consumer Segments	2005
	% of customers in regulated market
Domestic	91,9%
Rest	79,9%

The Order ITC/4101/2005, which establishes natural gas and piped manufactured gas prices, meter rental and connection rights for consumers connected to networks with a supply pressure of equal to or less than 4 bars applicable from the 1 of January of 2006, set up the suppression of the following regulated tariffs:

- Regulates tariffs 1.1, 1.2 and 1.3. Regulates tariffs for the customers connected to a gas pipeline whose maximum design pressure is higher than 60 bars.
- Regulates tariffs 2.5 and 2.6. Regulates tariffs for consumers connected to a gas pipeline whose design pressure is higher than 4 bars and lower than or equal to 60 bars, with consumption higher than 100.000.000 kWh/year.
- Regulates tariffs for industrial natural gas consumers with interruptibility.

[11] Domestic consumers include customers subject to rates 2.0, 2.0 N and 1.0.

The rest of consumers have the possibility of continuing to receive their supply in the regulated market, through a distributor at the relevant sale price.

The sale prices applied in the regulated market are updated every three months, in January, April, July and October, in accordance with Order ITC/4101/2006 (please see point 4.1.3).

As regards the last resort supplier, at present the distributors are in charge of supplying customers in the regulated market.

The following table shows the percentage of consumers in each segment, both domestic and other (commercial and industrial)[12] who receive their supply in the regulated market.

Consumer Segments	2005
	% of customers in regulated market
Domestic	69,9%
Rest	50,9%

Implementation of Annex A (Directive) criteria

GAS

In the natural gas industry, the consumer protection measures specified in Annex A of Directive 2003/55/CE are not regulated. Moreover, in this industry, unlike in the electricity industry, there is no legislative reform regarding the aforementioned consumer protection measures, although some of these measures are already included in the industry's current regulations.

[12] The pricing system in force does not distinguish between uses; therefore the following distinction has been established considering the rates that are generally applied to domestic customers (3.1 and 3.2) and the other rates.

Royal Decree 1434/2002 regulates all matters relating switching supplier in the natural gas industry.

Article 44 of Royal Decree 1434/2002, modified by Royal Decree 942/2005, provides for the following, relating switching supplier:

- Any consumer with a natural gas supply who has a qualified status may request, either themselves or through a marketer, to switch supplier.

- Applications for switching must include the following information at least:
  a) Date of request or notification.
  b) Consumer's ID: Customer's ID or tax ID number, name, address.
  c) Identification of the supply point.
  d) Customer's consent to the supplier switch.
  e) Company which the supply is being provided by.
  f) Company that is going to provide the supply.
  g) Company in charge of metering.
  h) Characteristics and owner of measuring equipment.
  i) Conditions of the new contract (Rate, Tolls, etc.), that allow the consumption and the associated tolls to be billed.
  j) Contract duration and type.

- For supplies at a pressure equal to or less than 16 bars, the application shall be submitted to the distributor, who shall validate the latter, checking that the information contained therein matches that stored in the database to which article 43 refers, and that the new supplier is duly authorised to carry out this activity. As regards supplies that involve an annual unitary consumption over 10 GWh, they must obtain the validation of the transporters that own the installations, at the entry point of the transmission and distribution system.

  The transporters shall check applications with annual consumptions of less than 10 GWh, grouped by dealer and entry point.

The maximum term to validate applications shall be six working days, as from the date on which the application is received, notifying the applicant of possible shortcomings within this period.

- For supplies at a pressure of over 16 bars, applications to switch suppliers shall be validated and processed in accordance with Royal Decree 949/2001, of 3 August, which regulates third party access to gas installations and establishes an integrated economic system for the natural gas industry.

- When there is an installation (metering) where the gas is received which belongs to a distribution company and a consumer is supplied by a marketer, the marketer must invoice the consumer for the use and pay the money collected to the distributor company.

Article 45 of Royal Decree 1434/2002 establishes the following with regard to a consumer who switches from the regulated market to the deregulated market:

- Any consumer whose natural gas supply is provided in the regulated market, may ask, either himself or through his new marketer, to the distributor who has the supply point assigned, for the supply change, providing the consumer's consent.
- For consumers with an annual consumption of less than 100,000 kWh, once the application has been validated in accordance with article 43, the distributor shall estimate the consumption, notifying the new supplier the switching date. The switch must always take place on the 1st, 11th or 21st of each month; the distributor is in charge of selecting the closest date to the validation date.
- For consumers with an annual consumption of equal to or more than 100,000 kWh, once the application has been validated, the distributor measure the real consumption, notifying the new supplier the switching date. The switch should match with the date on which the reading is taken, which must take place during the last five days of each month; the distributor is in charge of selecting the closest date to the validation date.

  For consumers with telemetering, the switch date shall be within six working days following the application validation date.

- Switching from a fixed-rate supply to the deregulated market shall not involve any costs for the consumer or for the new supplier. Supply payment bill shall only include the amounts charged for the supply until the switching date. Any other contracts between the consumer and distributor shall not be affected by the switch to the deregulated market, and can be kept or terminated in accordance with the contract conditions.
- Switch to the deregulated market by a consumer shall automatically, and as soon as it takes place, change the marketer relevant access contract for the transmission and distribution system, and the bills must be sent to the latter for the appropriate TPA tariffs. This change do not apply to access contracts for regasification plants, storages or transmission and distribution system entry points, which are under the same conditions established in the contracts signed by each marketer.
- As regards payment of the full-tariff supply, the provisions regarding claims, in article 61, shall apply, in the event of non-payment. The supply can be cut off in accordance with article 57 of this Royal Decree.
- The distributors and marketers shall keep, for a period of five years, a record of all correspondence exchanged on customers switching from the regulated market to the deregulated market in order to solve possible disputes.

Article 46 of Royal Decree 1434/2002 establishes the following with regard to marketer switching in the deregulated market:

- Any consumer whose supply is provided in the deregulated market may ask, either themselves or through their new marketer, to the distributor who has the supply point assigned, for switching supplier, providing the consumer's consent.
- For consumers with an annual consumption of less than 100,000 kWh, once the application has been validated, the distributor shall estimate the consumption and notify the marketer who used to provide the supply and the new supplier of the switch date. The switch date shall always fall on the 1st, 11th or 21st of each month; the distributor is in charge of selecting the closest date to the validation date.
- For consumers with an annual consumption of equal to, or more than 100,000 kWh, once the application has been validated, the distributor shall read the meter, notifying the marketer who used to provide the supply and the new marketer of the switch date.

The switch date shall fall on the date on which the metering was taken, which shall take place during the last five working days of each month; the distributor is in charge of selecting the closest date to the validation date.

For consumers with telemetering, the switch date shall be within six working days following the application validation date.

- Switching marketers shall automatically, and as soon as it takes place, change the relevant access contracts to the transmission and distribution system of the marketers involved. This change shall not apply to access contracts for regasification plants, storage or transmission and distribution system entry points, which shall be subject to the same conditions established in the contracts signed by each marketer.
- Possible disputes regarding payment and termination of the supply contract shall be settled in accordance with the conditions therein, and in any case in accordance with mercantile law.

Article 47 of Royal Decree 1434/2002, modified by Royal Decree-Law 5/2005, establishes the following with regard to consumers switching from the deregulated market to the regulated market:

- Any consumer who fulfils the conditions established in section 2 may apply to their distributor to switch to the regulated market.
- To be able to apply for a switch from the deregulated market to the regulated market, the following conditions must be met:

  a) Consumers connected to a gas pipeline with a design pressure of more than four bars or less than or equal to 60 bars, and whose annual consumption is less than 100 million kWh, shall submit their application to their distributor with a minimum of six months prior to the date on which the supplier switch is planned to take place.

  b) No conditions are set for other consumers.
- The distributor shall make the requested switch by following the same procedure and terms established in article 46 once the six months notice has passed.
- Once the return to the regulated market, the consumer must be supplied there for at least one year.

Article 61 of Royal Decree 1434/2002 establishes the following with regard to making claims:

- Claims or disagreements that are caused by the full-tariff supply contract or the resulting bills, shall be settled by administrative procedures by the competent energy authority of the Autonomous Region or the Cities of Ceuta and Melilla, wherever the supply is provided, regardless of the jurisdictional actions that may occur at the request of any of the parties.

Appropriate treatment of vulnerable customers

GAS

In Spain, vulnerable gas customers are not explicitly regulated, except for those public services, that can not be interrupted even if they don't pay the bills (hospitals, schools…)

Pipeline combustible gas supply activities are considered to be activities with a general economic interest, as established by article 2 of the Hydrocarbons Act, as follows:

"2. Recognition is given to the free business initiative to carry out the activities to which Heading III and IV of the present Law refer.

These activities shall be carried out by guaranteeing the supply of piped petrol and gas products to consumers who so request within national territory and shall be considered to be activities of a general economic interest. As regards these activities, the Public Administrations shall exercise the powers envisaged in the present Law."

With regard to the guaranteed supply of pipeline combustible gases, article 57 of the Hydrocarbons Act lays down that *"it shall be provided for all consumers that so request within the regions that fall under the scope of the relevant authorisation and under conditions of quality and safety set by the Government, after consulting the Autonomous Regions".*

Finally the activities of regulators in ensuring transparency of the terms and conditions of supply contracts should be set out in general terms including the division of responsibilities between the regulator, government and other public agencies.

In the free market, the terms and condition in supply contracts are negotiated by the parties (consumer and marketer) and consequently they have a private and confidential character. Therefore, there're no actions undertaken by the regulator or other authorities to give transparency to these private contracts. In any case, if a consumer does not agree with the terms proposed by the marketer, he can look for other offers in the free market or can choose being supplied in the regulated market.

In the regulated market, the supply contract content is defined in Royal Decree 1434/2002. According to the model established in this Royal Decree, the supply contract must include:

- Consumer identification.
- Facilities description and supply parameters (pressure, capacity, etc.).
- General conditions, regarding to the tariff which must be applied, facilities maintenance, metering testing, characteristics of the gas supplied, discounts due to supply disruptions, contract transfer, increase of supply capacity, disruptions conditions due to outstanding or technical causes, disconnection and connection charges, claims and jurisdiction.
- The model considers as well the possibility of establish additional clauses o special clauses, provided that these clauses do not contravene the law or impose a price upper than authorised tariffs.

If the consumer does not agree with the contract terms, he can complain to the regulatory authority where the supply would take place.