NORTON ROSE FULBRIGHT

Energy Academy

Energy Act



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16 September 2025
Norton Rose Fulbright LLP

Energy Academy 2025 program

Session 1 | 18 March
Grid access

Grid congestion poses a serious threat to energy projects, energy-intensive industries and other businesses. However, it also presents opportunities for new business models. Against this background, in the first session of 2025, we will explore opportunities for connected to gain flexible access to the grid. We will address:

- ✓ Time-based and time-block based transmission rights
- ✓ Cable pooling
- ✓ Capacity reduction contract
- ✓ Redispatch

Speakers: Marjolein Dieperink and Rosalie Blaauw

Session 2 | 15 April
Green hydrogen regulation

In this second session of our Energy Academy, we will take you through the most recent development and pitfalls of the green hydrogen regulation. What are the key things to keep in mind when entering this field? We will start with the basics and dive into the most important regulatory issues including:

- ✓ EU and Dutch regulation
- ✓ Legal definition of green hydrogen / EU compliant RFNBO
- ✓ Regulation and outlook hydrogen infrastructure
- ✓ Implementation of REDIII (renewable energy directive)

Speaker: Marjolein Dieperink

Session 3 | 17 June
Updates on energy project permitting

The third edition of our Energy Academy will focus on the relevant environmental and planning legislation in respect of development and operation of energy projects. This session will provide you with insights in different types of permitting procedures and possible environmental requirements, including:

- ✓ Choosing a location for your energy projects
- ✓ First experience with environmental law
- ✓ Recent developments

Speakers: Maaike Faase and Leora Wit

Session 4 | 16 September
New Energy Act

After a summer break, we will continue our Energy Academy with a deep dive into energy regulation, with a special focus on:

- ✓ Amendments to the Electricity Act 1998 and the Gas Act.
- ✓ The active customer and producer
- ✓ Flex contracts and grid congestion
- ✓ Regulator ACM

Speakers: Marjolein Dieperink and Rosalie Blaauw

Session 5 | 14 October
CCS

In the fifth edition of our Energy Academy, we take you along the most common CCS project structures and common issues in the legal framework, with special focus on:

- ✓ Legal structure CCS projects
- ✓ EU ETS and government support & subsidies
- ✓ Bottlenecks in the legal framework

Speakers: Marjolein Dieperink and Wouter Hertzberger

Session 6 | 18 November
ESG & the energy sector

The last Energy Academy provides a practical deep dive into ESG in the energy sector, with a special focus on:

- ✓ The legal framework for ESG
- ✓ Carbon Emission Reductions & Compliance.
- ✓ The Energy Sector & Mandatory Climate Transition Plans

Speakers: Marjolein Dieperink and Sharon Oded

Agenda Today

01 Introduction

02 New roles in the energy system

03 Grid congestion under the Energy Act

04 Interconnectors and interconnector systems

05 National Energy System Plan



Introduction 1/4

Structure of the Electricity Act

Purpose and integration

- ✓ The Energy Act replaces the Electricity Act 1998 and the Gas Act.
- ✓ The Energy Act integrates existing and revised EU legislation for electricity and gas.
- ✓ The Energy Act aims to restore clarity, consistency, and accessibility in energy legislation.
- ✓ The Energy Act will enter into force on 1 January 2026.

Chapter structure

- ✓ **Chapter 1:** General provisions.
- ✓ **Chapter 2:** Focuses on energy market activities (e.g. supply, aggregation), organized by function rather than actor, ensuring equal access for all market participants.
- ✓ **Chapter 3:** Covers the systems and operators of these systems, including transmission, distribution, interconnectors, and gas storage, regulated due to their monopolistic nature.
- ✓ **Chapter 4:** Details data processes, collection, usage, sharing and defines roles and conditions for involved parties.
- ✓ **Chapters 5–7:** Address supervision, enforcement, and additional provisions.

Design choices

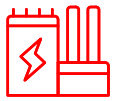
- ✓ **Unified framework:** Combines electricity and gas into one legal structure due to similarities in infrastructure and market design.
- ✓ **Simplification and modernization:** Removes outdated provisions and unnecessary differences between gas and electricity.
- ✓ **Alignment with EU legislation:** Updates definitions and structures to match European legal standards.

Introduction 2/4

Objectives of the Energy Act

Contribution to low carbon energy supply

- ✓ Establishes the legal framework for electricity and gas markets, enabling integration of renewable energy sources.
- ✓ Ensures access and transport of renewable gases and solar electricity from households.
- ✓ Facilitates flexible electricity use through aggregation agreements.
- ✓ Enhances transparency through data access, GvOs, and consumer control over energy data.



Contribution to an affordable and reliable energy supply

- ✓ Promotes efficient and competitive wholesale and retail energy markets to ensure affordability and unlock economic opportunities.
- ✓ Regulates system operators to guarantee fair access to electricity and gas infrastructure.
- ✓ Ensures reliable energy delivery through certified operators and infrastructure requirements.



Contribution to a safe energy supply

- ✓ Embeds safety in system operators' management and development tasks.
- ✓ Requires quality assurance to prevent accidents and damage.
- ✓ Mandates cybersecurity measures and reporting of data breaches to the 'Rijksinspectie Digitale Infrastructuur' (RDI).



Contribution to the integration of energy into spatial planning

- ✓ The Energy Act includes provisions that support the integration of energy into spatial planning.
- ✓ For example, the Rijkscoördinatieregeling, through which the government coordinates decision-making on energy projects of national importance.
- ✓ Investment planning is linked to new instruments like MIEK and includes a prioritization framework for system operators to guide expansion decisions.



Introduction 3/4

Broader societal transitions that have influenced the Energy Act:



Transition to a climate-neutral economy and society.

- ✓ The Netherlands has committed to achieving a climate-neutral society and economy within the next three decades to combat global climate change.
- ✓ Following the Paris Agreement and the European Climate Law, the EU aims for a 55% reduction in net GHG emissions by 2030 and full climate neutrality by 2050.
- ✓ The Dutch Climate Act aligns with these goals, targeting a 95% emission reduction by 2050.



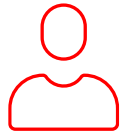
Transition to more decentralized and sustainable energy generation

- ✓ The energy mix must shift from fossil fuels (gas, oil, coal) to CO_2-free or low-carbon sources like wind, solar, hydro, and biomass.
- ✓ Energy production is moving from centralized plants to a combination of decentralized sources (e.g. solar panels, farm-based biogas) and large offshore wind farms.
- ✓ The electricity grid must adapt by integrating large-scale renewable sources, reinforcing infrastructure to handle increased demand, and creating more flexibility to manage variability in production and consumption.



Transition to a (more) digital society

- ✓ Facilitate faster and more detailed access to energy consumption and production data through smart metering and digital infrastructure.
- ✓ Improve coordination of energy supply and demand using digital data to boost system flexibility, especially for variable renewables like solar and wind.
- ✓ Provide consumers with real-time insight into energy use and costs, enabling active market participation.



Transition towards greater self-determination for end-users

- ✓ The shift toward decentralized and renewable energy sources allows end-users to take more control over their energy production and consumption.
- ✓ End-users can now store or sell self-generated electricity, giving them more autonomy within the electricity system.

Introduction 4/4

Implementation of EU legislation



Combined implementation and national policy

- ✓ The Energy Act merges the full revision of the Electricity and Gas Acts with the implementation of the EU Clean Energy Package (CEP).
- ✓ This integrated approach deviates from the usual separation between EU implementation and national policy due to practical and legal complexities.

Clean Energy Package

- ✓ Adopted in 2019, the CEP is a major revision of the EU electricity market framework, based on the 2015 Energy Union strategy. It emphasizes:
  - Energy security and solidarity.
  - Stronger consumer rights.
  - Decarbonization of the economy by 2050.
- ✓ Key components implemented in the Energy Act:
  - Electricity Directive (2019/944).
  - Electricity Regulation (2019/943).
  - Risk Preparedness Regulation (2019/941).
  - ACER Regulation (2019/942).

Reimplementation of existing EU rules

- ✓ The Energy Act also reintroduces provisions from previously implemented directives, including:
  - Gas Directive and Regulation (Third Gas Package).
  - Energy Efficiency Directive (2012/27/EU).
  - Renewable Energy Directive (2018/2001/EU).

New roles in the energy market

The active consumer

Shift from consumer to active consumer

- ✓ The Energy Act facilitates that an end-user, in addition to the traditional consumption of electricity, can become active in various ways and assume different market roles.
- ✓ An active consumer uses, sells, or stores self-generated electricity but these activities must not be the consumer's main commercial or professional activity (Article 1.1).

Strengthening the position of active consumers

To strengthen the position of active consumers, the proposed Energy Act, in line with the Electricity Directive, sets out several key conditions, including:

- ✓ Allowing multiple market participants per connection (Article 2.2),
- ✓ Enabling (independent) aggregation, including demand response (Article 2.34),
- ✓ Granting end-users the right to sell self-generated electricity without being subject to disproportionate requirements (Article 2.5),
- ✓ Requiring suppliers to offer contracts based on dynamic electricity pricing (Article 2.9).

Aggregation agreements 1/2



The Energy Act introduces, alongside the traditional supply agreement, three new types of contracts collectively referred to as aggregation agreements. Aggregation means combining demand response or electricity feed-in from multiple active consumers for the purpose of resale (paragraph 2.3).

1. Feed-in agreements

- ✓ A market participant acting as an aggregator can purchase electricity from active consumers. The aggregator bundles electricity from multiple active consumers.
- ✓ This bundled electricity is then resold on the wholesale market or directly to end-users.
- ✓ This form of aggregation was previously considered as feed-in to the supplier.
- ✓ It should be noted that when the aggregator sells electricity to an end consumer, they are considered the supplier in that relationship.

2. Peer-to-peer trading

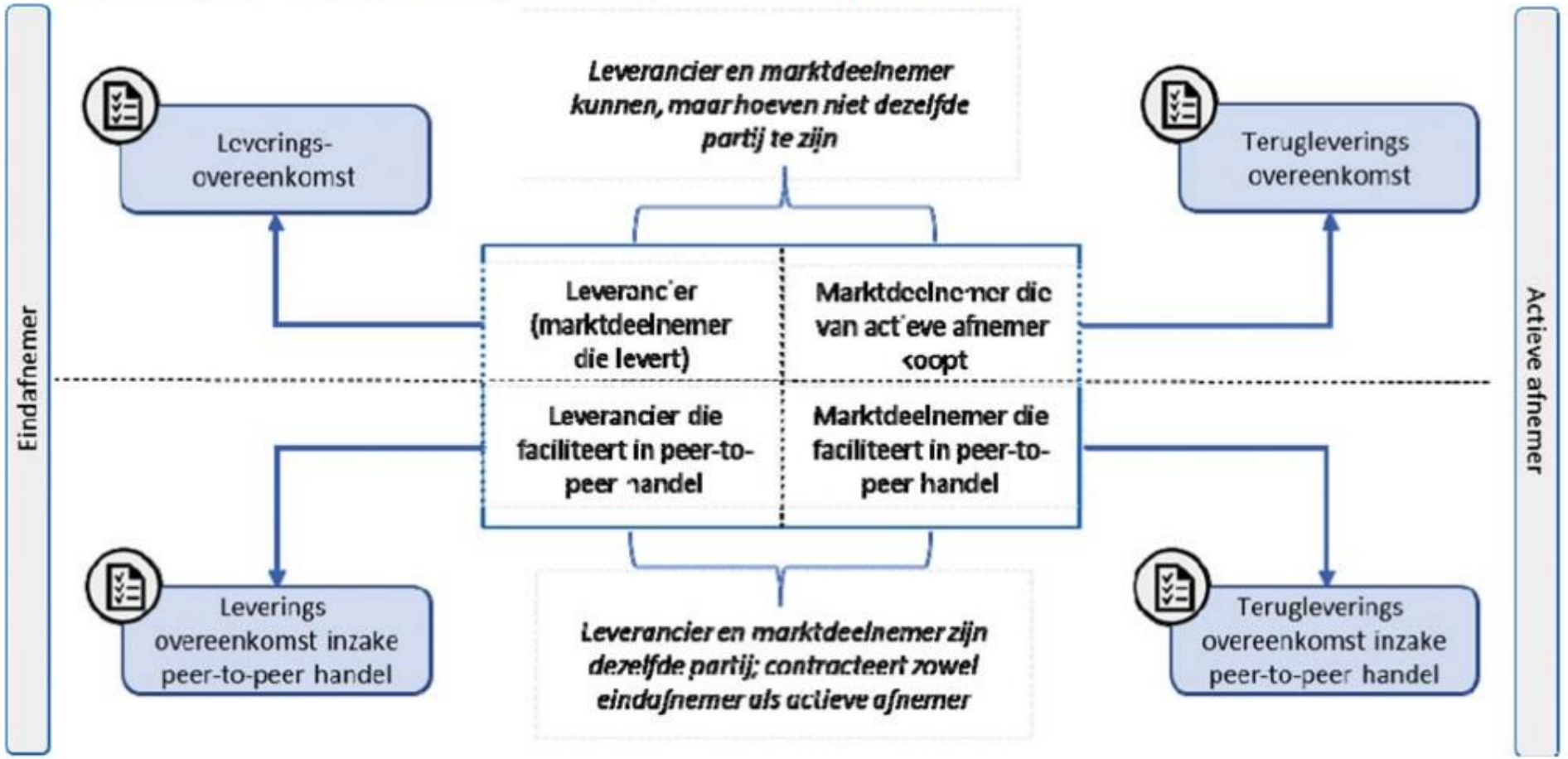
- ✓ A peer-to-peer trader is a market participant who facilitates the automated exchange of renewable electricity between active consumers and end users.
- ✓ The P2P trader acts as:
  - An aggregator for active consumers, with whom they sign a feed-in agreement allowing the consumer to offer electricity on the trader's platform.
  - A supplier to consumers, with whom they sign a supply agreement for P2P trade.
- ✓ The trader handles all administrative processes, including data exchange, grid fees, energy tax, and switching procedures.
- ✓ To maintain balance, the trader (or their Balance Responsible Party) may need to buy or sell electricity on the market depending on supply and demand fluctuations. However, over a year, they cannot supply more electricity than they receive from contracted active consumers.

3. Demand response

- ✓ Involves a contract where an active consumer sells flexibility in their electricity usage.
- ✓ Demand response means adjusting electricity consumption compared to normal patterns to free up flexibility.
- ✓ This adjustment is triggered by a third party, typically a market participant offering demand response services.
- ✓ The freed-up flexibility is sold to other market participants, such as:
  - Those facing electricity shortages.
  - The TSO, for system balancing purposes.

Aggregation agreements 2/2

Figuur: schematische weergave overeenkomsten eindafnemer of actieve afnemer



Energy community

Purpose

- ✓ Through energy communities, citizens, local governments, and small businesses can jointly generate, share, and sell energy.
- ✓ Energy communities are a special form of consumer activation encouraged by EU directives.
- ✓ An energy community typically acts as:
  - A producer of energy.
  - A supplier, especially when delivering energy to its own members.
- ✓ In the Netherlands, similar local collaborations already exist, often as energy cooperation.

Definition

- ✓ In the Energy Act, the energy community is defined as a new entity.
- ✓ According to the Energy Act an energy community is a legal entity that carries out activities on the energy market for the benefit of its members, partners, or shareholders, with the primary aim of providing environmental, economic, or social benefits to its members or the local areas in which it operates, and is not focused on making a profit (Article 1.1)

Articles of association

- ✓ An energy community must include in its articles of association, or in the case of a partnership, in an agreement, at least the following provisions (article 2.4):
  - Participation in the energy community is open and voluntary;
  - Members, partners, or shareholders have the right to leave the energy community;
  - Effective control over the energy community lies with members, partners, or shareholders who are natural persons, micro-enterprises, small enterprises, municipalities, water boards, provinces, or joint arrangements.

Exception of supply license

An energy community that produces electricity or gas is exempt from licensing requirements for supplying energy, provided the following conditions are met (Article 2.17):

- ✓ Annual balance: The community does not supply more electricity or gas than it feeds into the system over the course of a year.
- ✓ Supply scope: Energy is only supplied to end users with small connections who are members or shareholders of the community.
- ✓ Size limit: The community does not exceed a maximum number of members or shareholders, as determined by ministerial regulation. In the Draft Energy Regulation dated 4 June 2025 the maximum is set on 500 members.

Grid congestion under the Energy Act

Cable pooling 1/3

What is cable pooling?

01 Cable pooling was already possible for wind and solar farms. In the new Energy Act, cable pooling is made possible for all types of connected parties (Article 1.4).

02 Cable pooling is sharing one connection with other connected parties to the grid and can be used by all types of connected parties.

03 Cable pooling is possible for existing connections and new connections to the distribution system and the transmission system.

04 Cable pooling looks like a private grid (closed distribution system), but it does not require an exemption from the ACM.

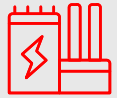
05 With cable pooling, the installations are seen as one WOZ property under the Electricity Act. This means that it is not possible to request for a separate connection at a later stage.

06 The ACM anticipates to the Energy Act and already allows cable pooling, provided that the requirements of the Energy Act and the Energy Decree are met.

Cable pooling 2/3

Requirements for cable pooling

Cable pooling for all connected parties



Re 1

The installations are in close proximity to each other (Article 1.4 (3) (a)).

Re 2

The installation owners must jointly enter into a CTA with the grid operator (Article 1.4 (3) (b)).

Re 3

The connection capacity is at least 100 kVA (Article 1.4 (3) (c) and 1.2 (1) Draft Energy Decree).

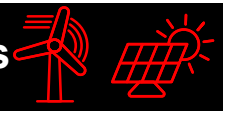
Re 4

No more than 4 WOZ properties are connected (Article 1.4 (3) (d) and Article 1.2 (2) Draft Energy Decree).

Re 5

Cable pooling must be reported to the ACM as soon as the connection is put into service (Article1.4 (4)).

Cable pooling for onshore solar and wind farms



Re 1

The installations are in close proximity to each other (Article1.4 (5) (a)).

.

Re 2

The installations are technically, organizationally or functionally integrated (Article1.4 (5) (b)).

Nieuws • 20 november 2024 • Leestijd 2 min.

ACM geeft groen licht voor cable pooling

https://www.netbeheernederland.nl/artikelen/nieuws/acm-geeft-groen-licht-voor-cable-pooling

Cable pooling 3/3

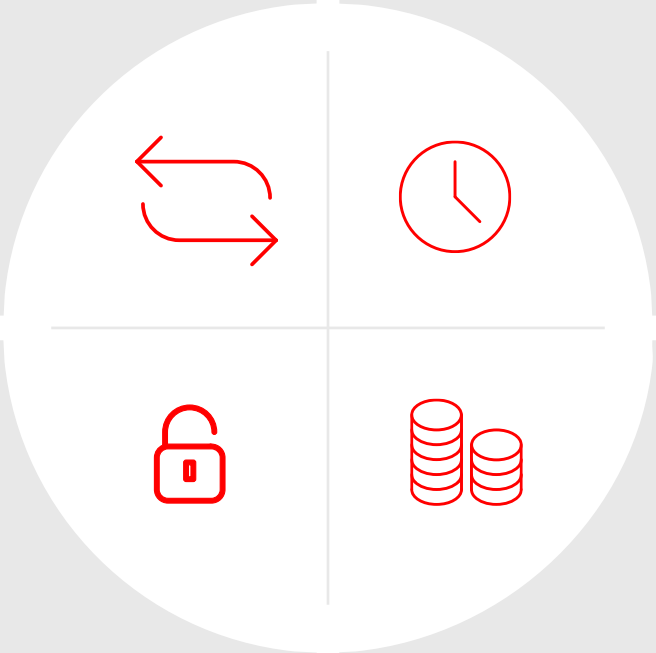
Why does cable pooling help reduce grid congestion?

Complementary profiles

By combining connected parties with a complementary offtake/feed in pattern on a single grid connection, the cable is used more efficiently without being overloaded.

Faster project realization

New grid connections can take years to develop. With cable pooling, projects can start more quickly by using existing infrastructure.



More efficient allocation of grid capacity

By sharing a connection with multiple connected parties in an intelligent way, (additional) transmission capacity can be connected in a congestion area.

Lower costs and reduced land use

A shared connection means fewer cables, less excavation, and lower costs, which is also beneficial for the surrounding environment.

Closed (Distribution) System

Changes compared to the Electricity Act

1. Clarification: closed systems may operate at high-voltage levels

The proposal explicitly clarifies that closed systems for electricity may exist at voltage levels up to 220 kV, broadening the scope beyond traditional low- and medium-voltage grids (Article 3.7 (1) (h)).

2. Terminology change from “Closed Distribution System” to “Closed System”

The term closed distribution system is replaced by closed system to reflect that high-voltage grids (up to 220 kV) can also be recognized as closed systems. The previous term no longer fits, as systems above 110 kV are now considered transmission systems under the new law (Article 1.1).

3. Increase in maximum number of connected users

The maximum number of users allowed to be connected to a closed system is increased from 500 to 1000 (Article 3.7 (1) (e)).

4. Removal of ownership requirement

The legal requirement that the system must be owned by the operator is removed. This change acknowledges that components like transformers are often owned by third parties and leased by the operator. The person operating the system may nominate an owner.

5. Clarification of connection and transport duties (Article 3.104)

- ✓ The operator of a closed system may connect users upon request but is not obligated to do so when there is a lack of transmission capacity.
- ✓ Refusals must be justified based on objective, technical, or economic criteria.
- ✓ Operators are not required to expand their system to accommodate new connections.
- ✓ They must act in a reasonable, transparent, and non-discriminatory manner.
- ✓ These provisions align with the EU Electricity Directive, which requires proper justification for refusals and ensures fair access where feasible.

6. Register management by CDS Operators

Under the new Energy Act, the operator of a closed system will also be designated as a register manager (Article 4.6). This means it is required to collect and maintain data on:

- ✓ Connections;
- ✓ Transfer points;
- ✓ Installations;
- ✓ Transport flows;
- ✓ Metering devices and measurements.

Deployment of flexibility services 1/2

Procurement of flexibility services

- ✓ In the Energy Act, a new provision has been introduced stipulating that TSOs and DSOs have an obligation to purchase congestion management or system management services for electricity (Article 3.29).
- ✓ This includes both the direct activation of quantities of electricity or capacity, as well as the conditional contracting of such activation.

Congestion management services: procedures preventing congestion to occur, such as a capacitation limitation agreement.

System management services: Procedures for more efficient grid management, such as balancing services.

Two objectives:

01

Solving congestion issues

- ✓ Flexibility services are needed to ensure electricity supply security and prevent disruptions.
- ✓ The Energy Act sets general conditions but leaves detailed implementation to existing EU regulations and ACM-approved rules.
- ✓ Current technical codes already define how TSOs and DSOs handle congestion.

02

More efficient operation/development of transmission/distribution system

- ✓ Flexibility services can be used temporarily or structurally as an alternative to grid expansion.
- ✓ Fulfills the Dutch Climate Agreement and Electricity Directive.
- ✓ The Energy Act extends procurement rights from DSOs to TSOs as well.

Conditions:

01

Non-discriminatory

Procurement must always be based on transparent, non-discriminatory, and market-based procedures.

02

Market based procurement

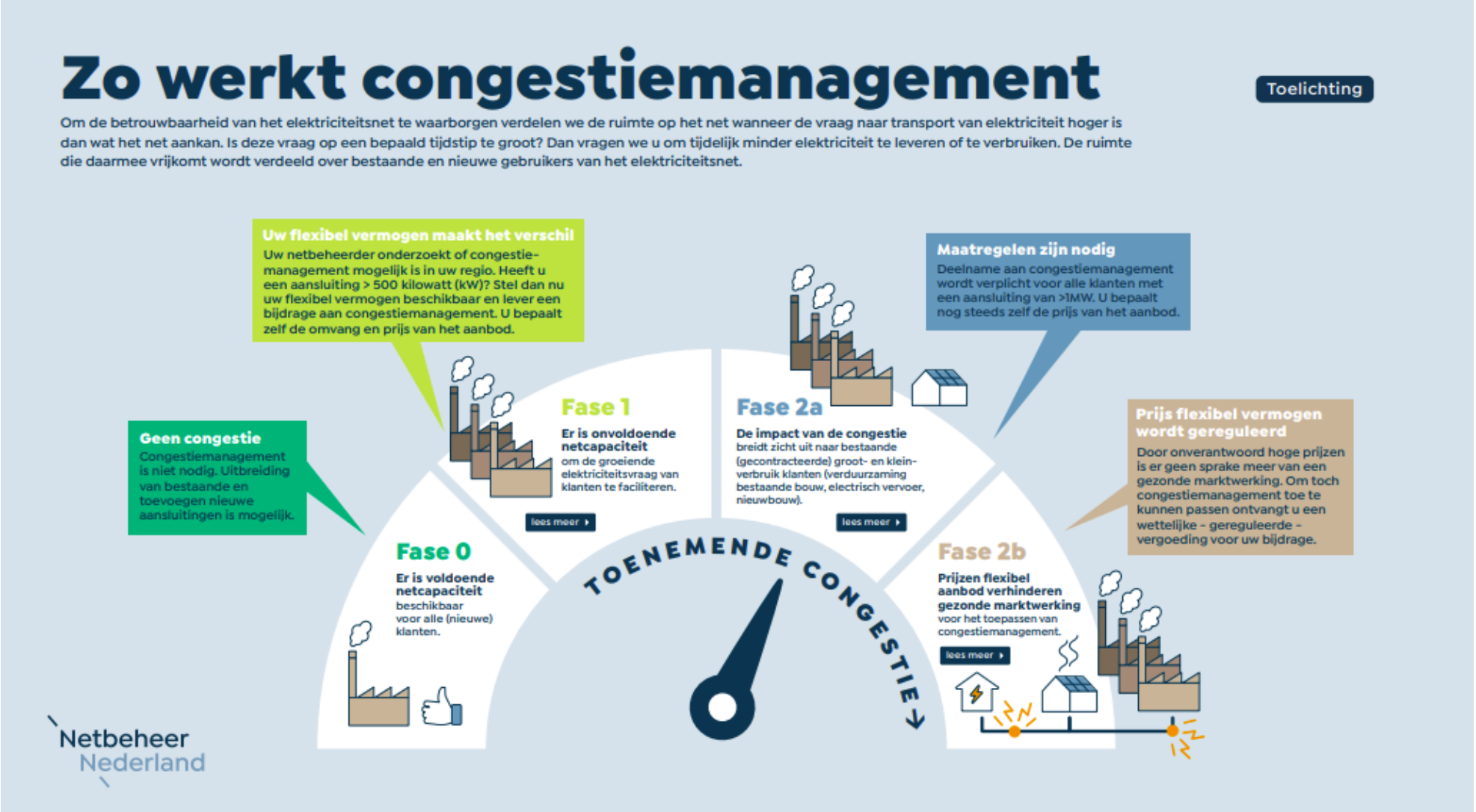
- ✓ System operators must aim to involve as many different connected parties as possible in the procurement process.
- ✓ The price for flexibility services is, in principle, unregulated and established on a voluntary basis.

03

Flexibility Services & Redispatching Overlap

- ✓ Flexibility services may overlap with redispatching, a congestion management method defined in the Electricity Regulation (Article 2(26)).
- ✓ In such cases, the rules from the Electricity Regulation apply, not those from the Energy Act.
- ✓ Exemptions from these rules are only possible under the Electricity Regulation (Article 13), not via the Energy Act.

Deployment of flexibility services 2/2



Interconnectors and interconnector systems

Interconnectors vs. interconnector systems

Interconnectors

Interconnectors are transmission lines and associated facilities that are part of the TSO's grid, crossing the border between the Netherlands and an EU Member State, EEA country, or third country, and connecting the Dutch onshore or offshore electricity transmission system with that of the other country (Article 1.1).

Interconnectors are subject to several EU legal obligations, including:

- ✓ Regulation 2019/943 (Art. 16(4)): Market participants must have access to the maximum available cross-border capacity.
- ✓ Regulation 715/2009 (Arts. 18 & 20): System operators must ensure transparency and maintain access to relevant data.

Since interconnectors are operated by TenneT, there is no need to appoint a separate system operator for them.

Interconnector systems

Interconnector system are transmission lines and associated facilities that are not part of an electricity transmission system, and that cross the border between the Netherlands and an EU Member State, EEA country, or third country, connecting the Dutch transmission system with that of the other country (Article 1.1).

In line with European legislation, a standalone cross-border connection is considered an independent transmission system. To clearly differentiate these from interconnectors that are always part of TenneT's system, the Energy Act refers to these interconnectors as interconnector systems.

For interconnector systems, a separate interconnector system operator must be appointed (Article 3.2).

Deep dive into interconnector systems

Appointment of an interconnector system operator

- ✓ To operate an interconnector in the Netherlands, it is required to be certified as an interconnector operator (Article 3.2).
- ✓ This certification requirement has a basis in Article 52 of the Electricity Directive and Article 51 of the Electricity Regulation.
- ✓ The certification of an interconnector operator requires a decision from the ACM, and a positive opinion of the EC (Article 3.4)

Prohibition of privatization

- ✓ The Energy Act introduces the requirement that at least 50% of the shares in an interconnector system operator for electricity must be held, directly or indirectly, by the Dutch State (Article 3.89).
- ✓ According to the legislator, this enables the transmission system operator to better align the development of interconnector systems with the available (and anticipated) transmission capacity onshore and offshore.



Unencumbered ownership

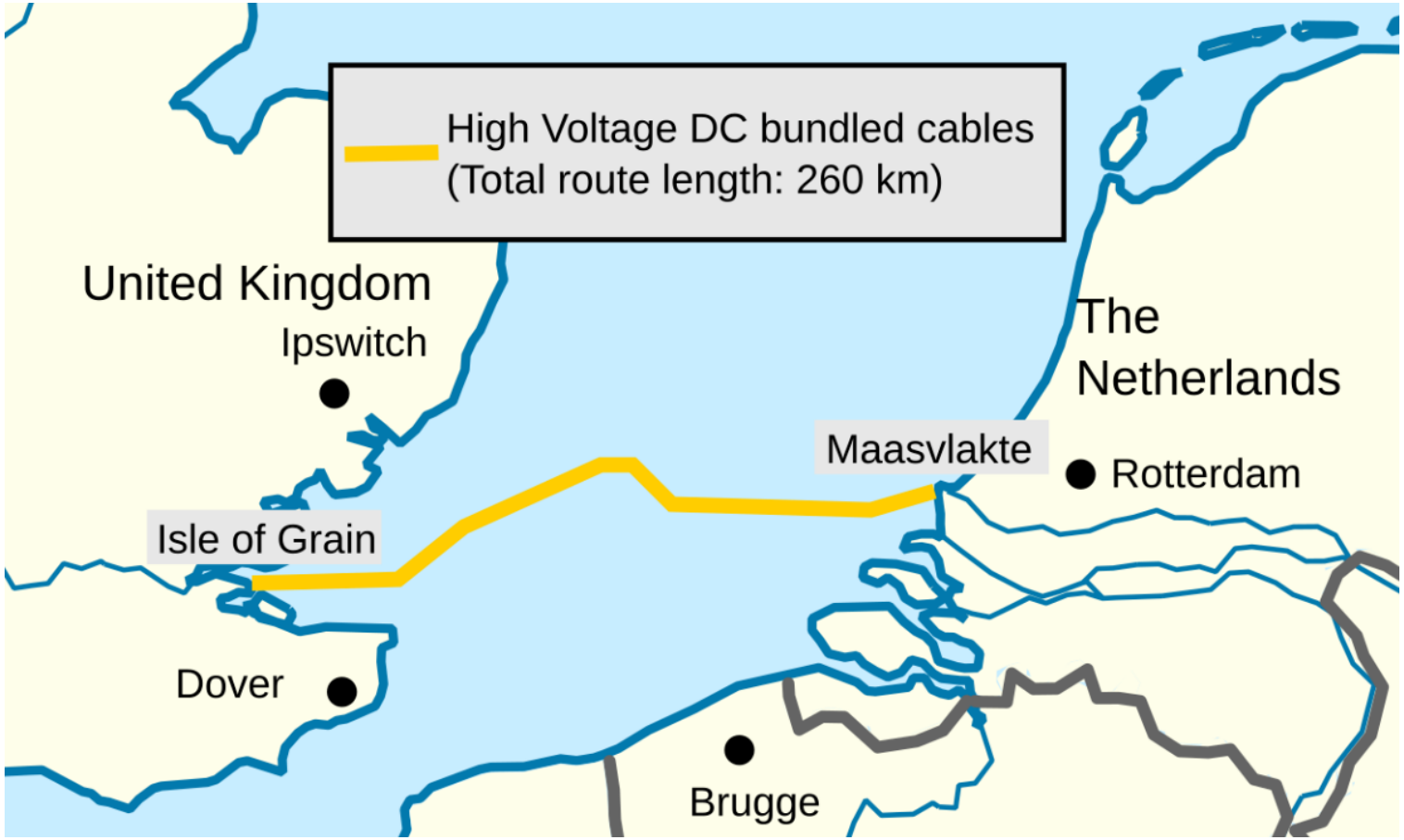
- ✓ The unencumbered ownership of the interconnector system must lie with the interconnector operator.
- ✓ The operator may not use the system, in whole or in part, as collateral for financing purposes, except when raising funds for its own operations.

Unbundling requirements

- ✓ The Energy Act implements the EU unbundling requirements as set out in the Electricity Directive (EU 2019/944).
- ✓ The Directive requires a strict separation between the ownership and control of interconnector system operators and companies active in electricity generation or supply.
- ✓ The ACM is responsible for ensuring that the operator meets these unbundling requirements as part of the certification procedure.

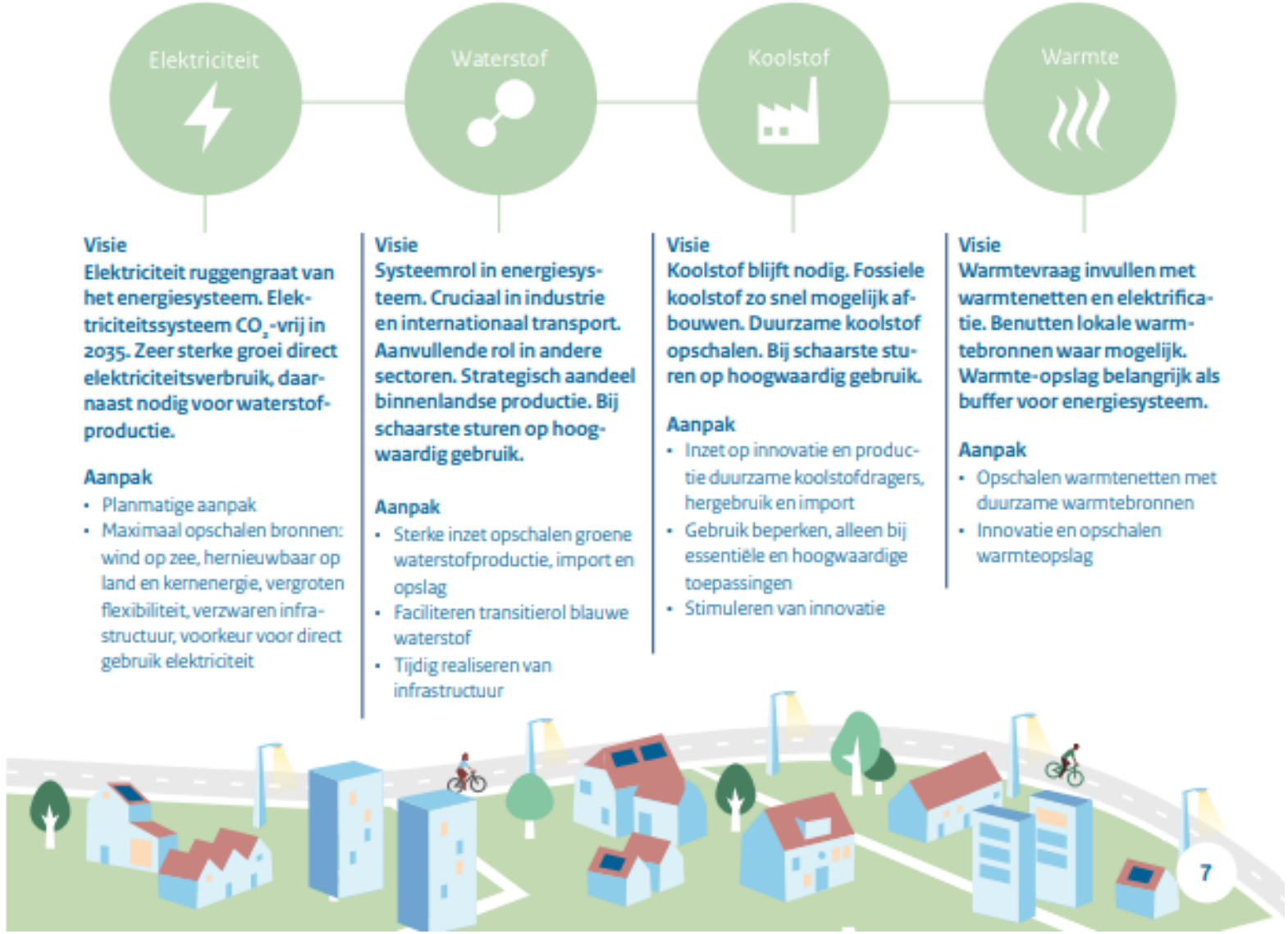
Deep dive into interconnector systems

In the Netherlands, most electricity interconnectors are an integral part of the high voltage grid of the national transmission system operator in the Netherlands, namely TenneT. The only exception is the interconnector between the Netherlands and the United Kingdom, known as BritNed:



National Energy System Plan

National Energy System Plan



Questions?



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