



### **Netherlands Energy Companies Likely Forced to Unbundle After All: Minister Presents Decree**

8 June 2007

*This newsletter is sent from our Rotterdam office*

*In November, the Netherlands' so-called Unbundling Act - the purpose of which was to force Dutch energy companies to separate their network activities from their commercial activities - was passed by the First Chamber of Parliament. However, the unbundling provisions were to be effectuated only if Dutch energy companies were to enter into foreign activities, jeopardizing the independent management of the gas and electricity networks. Not long thereafter, Dutch energy company Delta acquired a participating interest in Belgian waste disposal company Indaver, while Essent and Nuon contemplated a merger with the intention to enter into a joint venture with a foreign energy company.*

Following these developments, the Minister of Economic Affairs, at the request of the Second Chamber of Parliament, instructed the Dutch energy regulator DTe to inquire whether these energy companies have jeopardized the independent management of the networks. If the answer to this inquiry was affirmative, the Minister of Economic Affairs promised to issue a decree putting the unbundling provisions into effect.

On 7 June, 2007, Minister Van der Hoeven directed a letter to both Houses of Parliament, along with a draft Royal Decree, effectively putting the wheels of the Unbundling Act into motion. Once the Royal Decree is executed by the Minister, Dutch energy companies with a network operating subsidiary and a trading or production arm will no longer be allowed to operate as a single company. Network management will achieve operational independence, and monitoring the possible flow of network profits to other units in the holding will no longer be necessary.

The Royal Decree which enacts the prohibition on network operators and producers/traders acting as part of the same company will be presented to both houses of Parliament, as agreed in November.

The Decree will most likely take effect on 1 August 2007. Affected companies will have two-and-a-half years to implement the independent network management, i.e. by 1 February 2010.

The Ministry issued a press release 7 June regarding this announcement which can be read by [\[clicking here\]](#). The Minister can execute the Decree after having consulted with both Houses of Parliament. Consent of Parliament is not required.

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