

**Summary**

***Environmental duty of energy companies: reports and supervision, 28 October 1999***

Under the Energy Distribution Act (WED), which entered into force in 1997, the energy distribution companies have a duty to ensure that they and the consumers to whom they supply gas, electricity and heat use the energy efficiently and in an environmentally-friendly manner. The electricity distribution companies may apply a percentage of the energy charges each year for the performance of this statutory environmental duty. The energy distribution companies perform this duty by implementing the Environmental Action Plan (MAP). In 1997, electricity, gas and heat consumers were charged NLG 210 million for this purpose. In addition, the energy distribution companies together had accumulated an MAP reserve of nearly NLG 300 million as at 31 December 1997.

The Netherlands Court of Audit has audited the public reports issued by the energy distribution companies regarding the performance of their statutory environmental duty and the supervision exercised by the Minister of Economic Affairs. The audit relates to the state of affairs in 1997.

The Netherlands Court of Audit concluded that the Minister of Economic Affairs had inadequate assurances of the regularity of the public funds involved in the performance of the statutory environmental duty and had an inadequate insight into the efficiency with which it was performed. The Netherlands Court of Audit also found that the public reports did not provide other interested parties (such as consumer councils, the organisation for small and medium-sized enterprises in the Netherlands, the Dutch Consumers Association and the Foundation for Nature Conservation and Environmental Protection) with a full insight into the companies' compliance with the statutory requirements and the agreements made. It is therefore desirable that the energy distribution companies improve their public reports.

The Netherlands Court of Audit believes it is of great importance that an account is rendered of the performance of statutory duties and the collection and application of the public funds made available for that purpose. The minister is responsible for supervising the performance of statutory duties and for ensuring the adequacy of public reports. The energy distribution companies have their own responsibility for the performance of the duties assigned to them and for the transparency of their public reports.

There are several shortcomings in the Minister of Economic Affairs' supervision of the implementation of the MAP. No policy on supervision is in place and no annual assessment is made of the regularity and efficiency of the performance of duties.

Moreover, the systematic review of accountability information necessary to achieve this is not carried out. When adjustments are required in response to the information that is available, no action is taken. Owing to the absence of effective supervision, the Minister of Economic Affairs, as the minister responsible for policy, cannot report adequately on the MAP to the Lower House of Parliament.

The Netherlands Court of Audit also found that the public reports which the Minister of Economic Affairs requested from the energy distribution companies and from EnergieNed (the association of Dutch energy distribution companies) were inadequate to provide a full insight into their compliance with statutory requirements and with the agreements made with the sector regarding the implementation of the MAP. The energy distribution companies issued all the public reports required by law. EnergieNed complied with most of the agreements made on external reporting. EnergieNed's recommendations on the energy distribution companies' reports were not legally binding and on the whole were not followed by the companies. Moreover, recommendations on certain aspects were not specific enough to sufficiently guarantee that the energy distribution companies' reports would be consistent and unambiguous.

The Netherlands Court of Audit concluded that the administrative organisation and internal control at most of the energy distribution companies contained inadequate safeguards to provide reasonable assurances of the reliability of the information in the public reports. An annual external review of the regularity of income and expenditure and of the reliability of reported policy performance was not made. Regulations on the external review of the regularity and reliability of policy performance were not in place, with the exception of performance in the field of sustainable energy.

In consultation with the energy distribution sector and after receiving advice from the parties interested in external reporting, the Netherlands Court of Audit drew up a model for the public reports on the statutory environmental duty. The model offers the sector a means to report as efficiently as possible on the regular and efficient implementation of the MAP. The model can also be used in the period after 2000 when implementation of the MAP will have ended.

The Netherlands Court of Audit calls on the Minister of Economic Affairs to:

- take action to encourage energy distribution companies to issue public reports that provide a transparent insight into their compliance with statutory requirements and with the agreements made on the performance of their environmental duties;
- ensure, in consultation with the energy distribution companies, there is an improvement in the calculation and registration of income, expenditure and policy performance, and in the administrative organisation and internal control;
- improve the supervision of the energy distribution companies' performance of their environmental duties by drawing up a policy for that purpose. The policy should cover the collection of information, the annual expression of an opinion and the need for intervention.

In her response to the audit, the minister stated that she would adopt the recommendation to improve the quality of supervision for the final year of the MAP. She also undertook to urge EnergieNed to ensure that the energy distribution companies adopt its recommendation that they prepare uniform financial statements and give more consideration to the MAP in their annual reports and other publications. The Netherlands Court of Audit is still of the opinion that more needs to be done if the public reports on the MAP are to be reliable since EnergieNed's recommendations are not specific enough and do not relate to the administrative organisation of internal control.

In its response to the audit, EnergieNed noted that the energy distribution companies had complied with all statutory reporting requirements and that it had complied with the agreements made. It will investigate the extent to which the reports can be adapted to the Netherlands Court of Audit's reporting model. It does not share the Netherlands Court of Audit's opinion on the adequacy of the safeguards for the reliability of the information contained in the reports.