

Law 23rd August 2004, N. 239

Reorganisation of the energetic sector, as well as delegation to the Government to rearrange the provisions in force concerning energy (Official Gazette n.215, 13/09/2004).

Notes: Becoming effective of the law: 28/08/2004, in force from 28/09/2004

Chamber of Deputies and the Senate of the Italian Republic have approved

The President of the Italian Republic

promulgates

the following law:

SECTION 1

1. Within the limits of principles coming from the community system and the international duties, in the herein law we find the fundamental principles as far as the energetic matter is concerned according to the section 117, 3rd paragraph of the Constitution.

The provisions for the energetic sector are determined too and they help to guarantee the protection of the competitiveness, the protection of the essential levels of performances concerning the protection of the public safety and security taking for granted the discipline towards risks caused by considerable accidents, the protection of the environment and of the ecosystem to assure the legal and economic unity of the State and the observance of the regional and local autonomy, of the international agreements and of the community regulations. The objectives and the guidelines of the national energy policy, and the general principles for its practice on a territorial scale, are worked out and established by the State that makes a use of the linking mechanism and of the cooperation with the regional autonomy established by the herein law. The special constitution regions and the independent local governments of Trento and Bolzano are taken for granted and they support the purpose of the herein law according to the respective special statutes and the realization rules.

2. The activities of the energetic sector are regulated in the following way:

a) The activities of production, importing, exporting, the no subterranean storage of mineral oils, energy purchase and sale to the right clients customers, and energetic transformation, are free on the entire national territory, under the observance of the public utility obligations coming from the community regulation and the current legislation;

b) The transportation activities and dispatch of natural gas and the energy supplying infrastructures management linked to the transportation activities and to the dispatch of energy, are

public matter and they are also submitted to public services coming from the community regulation, from the current legislation and from specific agreements with the competent authority.

c) The activities of electric energy and natural gas distribution, exploration, cultivation subterranean storage of hydrocarbons, and the activities of electric energy transmission and dispatch are assigned under provisions of the law.

3. The general energetic policy objectives of the Nation, which attainment is assured on the basis of principles of subsidizing/ supporting , diversification, adequacy and fair cooperation of the State, of the Authority of the electric energy and gas, of the regions and local authorities, are:

a) to guarantee safety, flexibility and continuity of the energy supplying, basing the quantity on the demands and diversifying the primary sources of energy, the geographic place of origin and the way of transportation.

b) to promote the unitary functioning of the energy markets, the indiscriminate access to the energetic sources and to the relevant ways of fruition and the territorial redressing in relation to the contents of the points from *c)* to *l)*.

c) to assure the energy inexpensiveness offered to the final customers and the indiscriminate conditions of the national territory operators, also to promote the national economic system competitiveness in the European and international context;

d) to assure the system development through an increasing qualification of the services and of the companies and a homogeneous spreading of them on the national territory;

e) to pursue the improvement of the environmental supportability of energy, also in terms of rational use of the territorial resources, in terms of health protection and of respect of the promises on international scale and especially in terms of gas emissions with greenhouse effect and in terms of increasing of the use of the renewable energy sources by assuring the balanced use of each one of them.

The promotion of the use of the renewable energy sources must be realized also through the global system of the market mechanism, by assuring a balanced use of the sources themselves, by assigning the preference for the technologies with a lower environmental and territorial impact;

f) to promote the increase in value of the importation for the national safety and the development of competitiveness of the national economic system;

g) to increase the value of the national hydrocarbons sources, by promoting the prospecting and the use of them with conditions compatible with the environment;

h) to improve the efficiency of the final uses of energy;

i) to protect the subscribers-consumers with a particular reference to the needy families;

l) to promote and stimulate the research and the technological innovation as far as the energetic field is concerned, also to promote the ecological use of fossil fuel;

m) to safeguard the productive assets constantly characterized by growing and with a high factor of utilization of the electrical energy, sensitive to the energy price;

n) to promote, providing appropriate incentives too, the aggregations of the energetic sector of the companies joined by local authorities both among themselves and with other companies which work in the services management field.

4. The State and the Regions guarantee some conditions to assure the essential levels of performances about all kind of energy in a homogeneous way both in respect of the methods of fruition and in respect of the principles for the pricing and also in respect of the consequent impact on the pricing. These conditions are:

a) the respect of the competitiveness conditions on the markets of energy in accordance with the community and national regulations set of laws;

b) the absence of direct or indirect obligations, impediments or duties concerning the free energy circulation in the national territory and in the European Union;

c) the absence of every kind of duties with direct or indirect economical effects falling out of the authority territorial limits;

d) the adequacy of the energetic and strategical planning of production, transportation and storage, to assure adequate safety and quality standards and to assure the distribution and the energy availability on the entire national territory;

e) the regulation and management unity of the supplying and national and transnational energy transportation systems;

f) the adequate territorial balance concerning the location of the energetic infrastructures within the limits allowed by the physical and geographical features of every single region, expecting possible environmental and territorial adjustments and rebalancing, if some demands connected to the strategical national lines request territorial concentration of activities, plants and infrastructures with a high territorial impact, apart from the plants that are fed by renewable sources.

g) the clearness and the proportionality of the public utility duties concerning the energy activities, both when they are carried on during a concession regime, and when they are carried on during a free market system..

h) simplified procedures, clear and indiscriminate for the issue of licenses during a free market system and to carry out the infrastructures;

i) the preservation of the environment and of the ecosystem, and of the landscape in accordance with the national and community agreement.

5. The regions and the local authorities, territorially involved in the localization of new energetic infrastructures that is to be involved in the development or transformation of existent infrastructures, have the right to stipulate agreement with those who propose and who individualize measures of compensation and environment rebalancing, coherent with the general national energy policy objectives, except what is provided by the section 12 of the legislative decree 29th December 2003, n. 387.

6. The Regions establish by their own laws, according to the section 118 of the Constitution, the attribution of administrative tasks and functions not provided by paragraph 7, granted the fundamental functions of the municipalities, of the districts and of the metropolitan cities provided by the single text of the laws about the legal system of the local authorities by the legislative decree 18 August 2000 N. 267.

7. The following tasks and administrative functions are carried on by the State making a use of the Authorities of the electric energy and the gas too:

- a) the decisions related to the energy importation and esportation;
- b) the definition of sector planning schedule;
- c) the decision of the general principles about the assembly- techniques and the technical rules of the production , transport, storage and energy distribution plants , and about the technical and merchandise features of the imported, produced, distributed and used energy;
- d) the issuing of the techincal rules to assure the accident at work prevention and the health protection of the workers of the plants mentioned in paragraph C;
- e) the issuing of the technical rules to assure the fire prevention of the plants mentioned in letter c) which have to regulate the anti-fire safety by uniform principles on the national territory, competence of the Minister of the Interior only, based on the current legislation;
- f) the imposition and the supervision of obligatory energy stock;
- g) the identification of the fundamental geographical features of the national territory referred to the territorial plannning of the infrastructural energy networks which are considered a national matter according to the current laws;
- h) the planning of big infrastructural energy networks considered a national matter according to the current laws;
- i) the inividualization of the strategical infrastructures and settlements, according to the law 21 December 2001, n..443 and to the legislative decree 20 August 2002 n. 190, to guarantee the strategical safety, including the one concerning the energy supplying and its own use, the expense reduction of the national energy supplying, the innovative technologies development to generate electric energy and the adjustment of the national strategy to the community one for the energy infrastructures;

l) the use of the public maritime State property and of the territorial sea-areas for supplying of energy sources;

m) the decisions about the radioactive waste;

n) the decisions about the prospection, research and cultivation of the hydrocarbons, including the functions of the mining inspectors, adopted together with the involved regions, for the dry land;

o) the definition of the scientific research programs in energetic field together with the permanent Conference for the relationship among the State the regions and the independent districts of Trento and Bolzano;

p) the definition of principles for the coordinated use of the regional national and European Union financial resources, seen the unified Conference mentioned in the section 8 of the legislative decree 28 August 1997 n. 281;

q) the adoption of temporary measures to safeguard the supplying continuity, in case of energy market crisis or in case of serious risks for the community's safety or for the integrity of the equipment and facilities of the energy system;

r) the decision of the general principles to guarantee the safety of the user plants in the buildings, confirming the competence of the Minister of the Interior as far as the general principles of anti-fire safety are concerned.

8 . The State exercises the following tasks and functions:

a) Especially referred to the electric sector, making a use of the Authority of electric energy and gas:

1) the granting for the management of the transmission activities and national electric energy dispatch and the adoption of pertinent lines;

2) the stipulation of agreements about the electric energy transportation on the national network;

3) the approvation of the development lines of the national network of transmission, considering also the regional planning development of the electric service;

4) the updating, taking into consideration the unified Conference, of the standard agreement to regulate the maintenance works and the national network and interconnection system development;

5) the adoption of guidelines and measures to guarantee the safety and the inexpensiveness of the international exchanges, to guarantee the supplying for the uncomfortable and bound clients, and to guarantee the generating and energetic networks system, promoting a larger access for the electric energy importation;

6) the adoption of measures to guarantee the real competitiveness of the electric energy market;

7) the decision of general principles for the new licence of the electric energy distribution and to authorize the building and the management of electric energy generating system generation plants by

using a thermal power higher than 300MW, taking into consideration the unified Conference and the general guidelines of the regional energetic plans;

b) Especially referred to the natural gas sector, also making a use of the Authority of electric energy and gas:

1) the adoption of lines for the companies which perform transportation activities, dispatch on the national network and re-gasification of natural gas activities and instructions with the object of the use, in case of necessity, of strategical storages and the stipulation of the pertinent agreements and the fixing of rules for the dispatch in case of emergency and of safety duties;

2) the individualization, according to unified Conference, of the national pipelines network;

3) the decisions concerning the storage of natural gas in deposit;

4) the authorization to carry out the gas importing and selling activities to the final clients given on the basis of general principles taking into consideration the unified Conference;

5) the adoption of lines for the safeguard of the continuity and of the supplying safety for the coordinate functioning of the storage system and for the reduction of the vulnerability of the national system of natural gas;

c) Especially referred to the mineral oils sector, meaning crude mineral oils, rests of their distillations and all kinds and sorts of petrol by-product and absorbed ones, including liquefied petroleum gas and biodiesel:

1) the adoption of guidelines and programatic principles concerning the manufacturing equipment and storage assigned to the importation and exportation of the mineral oils, to guarantee the market supplying;

2) the individualization of initiative for the connection among regions and involved central governments, for the joined valuation of the different measures, also from the enviromental and fiscal point of view, concerning mineral oils, able to produce significant effects on the choices about the energy national policy, and for the decision of simplified procedures to carry out the necessary investments for the equalization to the national community and international agreements.

3) the monitoring of the real working and storage capacity, assigned to the importation and exportation of mineral oils, also on the basis of the Regions' instructions;

4) the passage of programmed agreements, without new or more important duties for the public finance. These agreements are with the regions and the local authorities to significantly achieve and modify the processing and the mineral oil storage infrastructures, which are strategical to the energetic national supplying;

5) the individualization, in accordance with the unified Conference, of principles and conditions to give the authorization for the installation and the use of the manufacturing equipment and of the

mineral oils storage. The regulation provided by the current set of laws as far as the supplemented environmental authorization is concerned, is confirmed.

6) the individualization, in accordance with the unified Conference, of the national network of the oil pipelines.

9 . In order to achieve the general objectives abovementioned in paragraph 3, the State and the regions see specific requirements to intervene and propose the necessary initiatives to the competent institutional authorities, accepted the opinion of the permanent Conference about the relationship among the State, the regions and the independent districts of Trento and Bolzano.

10. If the initiative abovementioned in paragraph 9 includes a distribution of tasks among the regions, the permanent Conference about the relationship among the State, the regions and the independent districts of Trento and Bolzano, accepted the opinion of the local authorities involved, it will provide for the conditions of this division.

11. According to section 2, paragraph 21, of the law 14 November 1995, n. 481, the government shows the Authority of the electric energy and gas, the requirements about the public utilities development of the electric energy and gas sectors which correspond to the general national requests, within the limits of the economic-financial programme Document.

The Council of Ministers, on the basis of the Minister's of the productive assets proposal, can determine, taking into consideration the position of the Parliamentary committee, general policy lines of the sector to practise the functions assigned to the Authority for the electric energy and the gas in accordance with the current legislation.

12. The Authority for the electric energy and gas shows the report of the services condition and of the performed activity to the Parliament and to the Prime Minister, in accordance with the section 2, paragraph 12, letter i), of the law 14th November 1995, n.481, within the 31st June of every year. In the report the Authority also explains the initiatives as far as the requirements of the work of public interest development are concerned and in accordance with the general policy lines of the sector mentioned in paragraph 11.

13. In case the Authority of the electric energy and gas has to express its opinion about provisions or acts in accordance with the current laws, taking for granted the different law terms themselves, the Authority declares its opinion within 60 days starting from the date of the receipt of provision or act. Uselessly passed this term, the provision or the act can be adopted anyway.

14. In case the Authority of the electric energy and gas doesn't adopt acts or provisions under its competence according to the current laws, the Government can exercise the substitutive power within the limits established in the present paragraph. To get this objective, the Minister of productive assets urges the Authority to carry out within the next sixty days. Passed these terms without an act or provision adopted by the Authority, they are adopted with a decree of the President of Republic, by deliberation of the Council of Ministers, on the basis of the Minister's of the productive assets proposal.

15. Starting from the coming into force of the current law, the Authority of the electric energy and gas is collective body formed by the President and by four members. Taken for granted the natural due date of the members of the Authority in office during the abovementioned date, the new members are named within the next sixty days in the observance of the provisions abovementioned in section 2, paragraphs 7 and 8 of the law 14th November 1995, n. 481.

16. The members of the pertinent organ for the decision of the electric rates, including the decision about the thermic over charge, are responsible for the actions and behavior in the exercise of their duties, when the events don't have any penal relevance, in accordance with and due to the sections 2043 and followings of the civil code only as a civil responsibility, in accordance with the provisions of sections 33,34,and 35 of the legislative decree 31st March 1998, n.80, as substituted by section 7 of the law 21st July 2000, n.205.

17. Those who invest, directly or indirectly, in the carrying out of new interconnection infrastructures among the national networks of gas transportation of States members of the European Union and the italian transportation network to the carrying out of new terminals of natural liquefied gas regasification in Italy and of new subterranean storages of natural gas, or to significantly develop the abovementioned existing infrastructures capacity, that let develop the competitiveness and new natural gas supplying sources, can ask for an exemption from the regulation that provides the right to access for the outside parties, for the ability of new realization . The exemption is allowed, case by case, for a period of time of at least 20 years and for an amount of at least 80% of the new capacity, from the Ministry of the the productive assets, by the opinion of the Authority for the electric energy and gas. In case of realization of new interconnection infrastructures, the exemption is allowed by consultation of the pertinent authorities of the involved State. The exemptions established before the coming into force of the current law according to the legislative decree 23rd May 2000, n. 164, and the rights coming from the law 12th December 2002, n. 273, for the concessions given according to the current regulations and for the authorizations given in accordance with section 8 of the law 24th November 2000, n.340, are confirmed.

By the decree of the Minister of the productive assets, the principles and the methods to grant the exemptions and the access to the national network of the Italian gas pipeline in the situation mentioned in the herein paragraph, are established, in accordance with the community decisions in this matter.

18. Those who invest, directly or indirectly, in the realization of new international infrastructures of interconnection with States which are not members of the European Union to import natural gas in Italy or to develop the transportation capacity of the existing gas pipelines, have the right to the priority allocation in the corresponding entrance sites of the national gas pipelines network, to give the correspondent new capacity carried out in Italy of an amount of the transportation capacities of at least 80% of the new importation capacities carried out abroad, for a period of time of at least 20 years, and on the basis of the conferment modalities and of the transportation rates, established by the Authority of the electric energy and gas. This right is allowed by the Ministry of the productive assets, by the opinion of the Authority for electric energy and gas, that must be given back within the term of 30 days starting from the request; passed this term, it is accepted positively.

19. To get the abovementioned conditions provided by paragraphs 17 and 18, by those who invest we also mean the ones who, through the subscribing of importation contracts guaranteed for a long term, contribute to finance the project.

20. The left amount of the new transportation capacity at the entrance sites of the national gas pipelines network abovementioned in paragraph 18, and the left amount of the capacity of the new infrastructures of interconnection, of the new subterranean storages of natural gas and of the new terminals of regasification mentioned in paragraph 17, and of the development of the existing capacities mentioned in the paragraph 17 itself, are allocated inexpensively and system safety established by decree of the Minister of the productive assets, basing this allocation on the procedures decided by the Authority of the electric energy and gas in accordance with the efficiency principles.

21. The principles abovementioned in paragraph 20 are not applied to every case where the access to the system would prevent the operators of the sector from performing their public services duties, that is when serious economic and financial problems come from the access for natural gas companies working in the system, concerning contracts like “take or pay” signed before the coming into force of the regulation 98/30/CE of the European Parliament and of the Council, of the 22nd June 1998.

22. The Authority which answers for the competitiveness and the market, on the report of the Authority of the electric energy and gas too, adopts the provisions mentioned in the law 10th October 1990, n. 287, charged to those who don't observe the principles according to which they have obtained the allocation of the transportation capacity, storage or regasification mentioned in paragraph 20.

23. The Authority of the electric energy and gas identifies the procedures mentioned in section 13 of the decision of the same Authority 17 July 2002, n.137/02, published by the Official Gazette n.190 14th August 2002, within sixty days starting from the coming into force of the current law, to safeguard the continuity and safety of the national system of natural gas through the establishment of a ceding and exchange point of the gas volume and of the input and output capacity on the national transportation of the gas.

24. To the section 1-ter of the decree 29th August 2003, n. 239, converted, with changes, by the law 27th October 2003, n.290:

a) the paragraph 2 is substituted by the following: “2. The Minister of the productive assets issues the lines to the development of the national networks of electric energy and natural gas transportation and verifies the conformity of the development plans decided, annually, by the transportation network administrators with the lines themselves.

b) in paragraph 4 the text “and anyway each company with public control” is substituted by the following one: “and each company with public control, even indirectly, only if it directly works in the same sectors.

25. The term abovementioned in paragraph 7 of the section 1-sexies of the decree 29th August 2003, n. 239, converted, with changes, by the law 27 October 2003, n. 290, is postponed to 31st December 2004.

26. The paragraphs 1, 2, 3 and 4 of the mentioned section 1-sexies of the decree n. 239 of 2003 are substituted with the following ones:

“1. The construction and the practise of the long-distance lines which are part of the national network of electric energy transportation, are activities of primary public importance and they are dependent on a consolidated authorization, given by the Ministry of the productive assets in agreement with the Ministry of the Environment and of the territorial protection and by agreement with the

involved region or the regions, that substitutes authorizations, concessions, permission and approvals provided by the current rules, being assent to build and operate this infrastructures in accordance with the approved project, to guarantee the energetic system safety and to develop the competitiveness in the electric energy markets field.

The Minister of the Environment and of the territorial protection provides to judge the environmental impact and to control the conformity of the works with the approved project.

The competence of the Ministry of infrastructures and transport as far as the verification of the conformity of the works with the official instructions of the sector and of the town-plannings and the area plans for building, is confirmed within the limits of this consolidated procedures.

2. The authorization mentioned in paragraph 1:

a) Shows the instructions and the informative duties charged to the one who proposes to guarantee the coordination and the safeguard of the national energy system and the environmental protection, and the deadline for the realization of the idea;

b) Includes the declaration of public utility, the fact that it cannot be put off, and the urgency of the work, the possible declaration of immovability and the the adding of the prearranged obligation for the espropriation of the goods that it includes, in accordance with the President's of Republic decree 8th June 2001, n.327, bringing the consolidated text of the legislative and regular dispositions as far as espropriation of public utility is concerned. If the works mentioned in paragraph 1 implies any variation of the town planning tools, the issue of the authorization becomes a change of the town-planning.

3. The authorization abovementioned in paragraph 1 is given in consequence of a consolidated procedure performed within one hundred eighty days, in the observance of the simplifying principles and with the modality mentioned in law 7th August 1990, n.241. The procedure can be started on the basis of a preliminary project or a similar one as long as it points out the, by projection, the areas potentially involved to add the prearranged obligation for the espropriation on, the possible respecting conditions and the necessary safeguard measures. The Ministry of infrastructures and transport, the Ministry of the Environment and of the environmental protecion, the other involved governments and those who are asked to express their opinion concerning possible interferences with other existing infrastructures, participate in the procedure. The justified opinion of the local authorities involved in the works mentioned in paragraph 1 has to be requested, to obtain the authorization to verify the town-planning conformity of the work. This opinion cannot affect the term within which the conclusion of the procedure is provided.

4. In case, according the current law, the works mentioned in the herein section are submitted to evaluation on the environmental impact (VIA), the positive result of this evaluation is integral part and necessary condition of the proceedings for the authorization. The inquest comes to an end once that the

VIA has been obtained or, where it is possible, once that the result of the verification of subjugation to VIA has been obtained and, in any case, within the term mentioned in paragraph 3.

As far as the proceedings with regards to which there are no environmental impact evaluations provided are concerned, the unique proceedings have to be finished within one hundred twenty days starting from the date of the presentation of the request. 4-bis. In case of non-definition of the agreement with the involved region or regions within the provided term for the authorization release, the State exercises the substitutive power in accordance with the section 120 of the Constitution, in the observance of the principles of supporting and fair cooperation and authorizes the works mentioned in paragraph 1, by the President's of the Republic decree, based on the Minister's of productive assets proposal by agreement with the Minister of the Environment and territorial protection.

4-ter. The instructions of the herein section are valid also for the existing proceedings at the time of the coming into force of the herein instruction at the request of the proposer, apart from the procedures for which the VIA procedure has been completed, that is when the pertinent proceedings are ending.

4-quarter. The instructions of the herein section are valid for the electric network of interconnection with foreign countries with a voltage level of 150 kV or more, if there is a priority right to access, and they are valid for the connected works and for the infrastructures for the connection to the national transport networks of energy coming from thermoelectric power stations with a power higher than 300 MW, already authorized in accordance of the current set of laws”.

27. In the mentioned section 1-sexies of the legislative decree n.239 of 2003, paragraph 5, the text: “of energy networks” is substituted by the following one: “of electric networks”; in the same section 1-sexies, paragraph 6, the text: “also as far as the national natural gas and mineral oils transport is concerned” is cancelled.

28. In the section 9, paragraph 2, last sentence, the part of the law 22 Feb 2001, n.36 where it is said: “decree mentioned in section 4, paragraph 2, letter a)” is substituted by the following one: “decree mentioned in section 4, paragraph 4”.

29. The Prime Minister, on the basis of the Minister's of productive assets proposal, in agreement with the Minister of Economy and Finance, can decide the terms and the obligations for the companies or the involved States members governments, to protect the requests of national energy supplying safety that is the competitiveness of the markets, within thirty days starting from the communication of the operation to the Authority guarantor of the competitiveness and market, until the complete realization of the electric energy and natural gas consolidated market, in case of operation of companies massing

working for the electric energy and gas markets in which the companies or the States governments members of the European Union are involved and where there are no fair reciprocity guarantees.

30. The following was added to the article 14 of the legislative decree 16th March 1999 n. 79, after the paragraph 5-bis:

“5-ter. As from the date the present provision became effective, every final client, is to be considered as a suitable client, individual or associate, whose consumption, measured in a single point of the national territory, destined to the activities exercised by one-man business or constituted in corporate form, as well as to the subjects indicated in the clause 1, paragraph 2, of the legislative decree 30th March 2001 n. 165 and following modifications, emerged, in the previous year, to be equal or higher than 0.05 GWh.

5-quater. As from the 1st July 2004 every non-domestic final client is to be considered as a suitable client.

5-quinquies. As from the 1st July 2004, every final client is to be considered as suitable client.

5-sexies. that As from the dates in paragraphs 5-ter, 5-quater and 5-quinquies the bound clients become suitable clients, and they have the right to withdraw from the pre-existent supply contract, as bound clients, with the formality established by the Authority of electrical energy and gas. Whenever this right is not exercised, the supplying of the above mentioned suitable clients are still guaranteed by the Acquirente unico Spa.

31. The paragraph 3 of the clause 4 of the legislative decree 16th March 1999, n. 79, is abrogated.

32. The consortium as provided in the clause 1 of the law 27th December 1953, n. 959, can hand over the electrical energy, substitutive of the fee, to the suitable clients and to the Acquirente unico Spa for the supply to the bound clients.

33. The existing distribution concessions of electrical energy are excluded, and regarding the activity of distribution, the concession disciplined in clause 14, paragraph 1 of the decree 11 July 1992, n. 333, converted with modifications by the law 8th August 1992, n. 359 is also excluded. In order to guarantee conditions being equal, the Minister of the Production Activities can, after considering the Authority of electrical energy and gas, propose modifications and variations of the provisions present in the agreements.

34. The companies operative in the field of electrical energy and natural gas that have the concession or probation of the management of the local public services, that is to say the management of network, installations and other infrastructure equipment, cannot exercise individually or with any competitive action except from the selling of electrical energy and gas and the selling of public lighting in the field of the post-meter services to the users of the public service and of the installations. Within three months after the date the present law becomes effective, the Ministry of the Production Activities, the Authority of electrical energy and gas and the other interested administrations will see to the modifications and integrations of the rules and relevant provisions for the applications of the dispositions disciplined in the present paragraph.

35. Within 12 months after the present law became effective, the Authority of electrical energy and gas will adopt the necessary measure, compatibly with the development of the technology of the measure device, so that the distribution companies place at its client's disposal, or at the disposal of a selected operator, the signal for the measure of their power consumption.

36. The owners of the new plant for the production of electric energy that are authorised after the present law becomes effective and with thermal power not lower than 300 MW, will pay the region where the plant is located an amount of €0.20 per MWh of produced energy for the first seven years of operation. This amount is a compensatory contribution for the fact that the territory is not alternatively used and for the logistical impact of the yards.

The region where the installation is located arranges the division of the compensatory contribution amongst the following subjects:

a) The commune where the plant is located; it will receive an amount not lower than 40% of the total;

b) The bordering communes; they will receive an amount not lower than 40% of the total and in proportion 50% for the extension of the border and 50% for the population;

c) The province that includes the commune where the plant is located.

37. The Minister of Finance arranges biennial revisions of the amounts disciplined in the paragraph 36 with the modalities disciplined in the clause 3 of the law 22nd December 1980, n. 925. When the plants are located in communes bordering more regions, the beneficiary communes, receiving the compensatory contribution disciplined in paragraph 36, are determined by the region where the plant is located in agreement with the bordering regions. For the plants of thermal power not lower than

300 MW that are subject to strengthening interventions authorized after the date the present law became effective, the contribution is reduced by 50% and is allowed for a period of three years after the start of these interventions. The contribution is calculated on the basis of the increase of the power derived by the intervention. The contribution disciplined in the present paragraph and in paragraph 36 is not due in every case where the agreements disciplined in paragraph 5 are stipulated or when voluntary agreements concerning measures of compensation result were stipulated before the date the present law became effective. If the plants for the production of electrical energy affect or perform effects and impacts on national parks because of the particular location evaluated on the terms of a radius not wider than 10 km from the barycentre point of the emissions including the connected works, the contribution is paid to the territorial bodies involved. The contribution is based on criteria individualized by the decree of the Minister of the Environment and the Protection of the Environment and is due within sixty days after the date the present law becomes effective.

38. The operations made on the market of electricity, disciplined in the article 5 paragraph 1 of the legislative decree 16th March 1999 n. 79, are considered carried out in the act of payment of the compensation as the result of and for the effect disciplined in article 6 of the decree of the President of the Republic 26th October 1972 n. 633 and following amendments, with the limits provided in paragraph four of the same article 6.

39. In case of variations of the taxable income or of the tax relevant to the operations carried out on the market of electricity disciplined in article 5, paragraph 1, of the legislative decree 16th March 1999 n. 79, the amendments provided for by the article 26 of the decree of the President of the Republic 26th October 1972 n. 633 and following amendments, are operated with reference to the invoice issued in relation to the most recent homologous operation carried out by the taxable person towards the same counterpart. The homologous operation is the one carried out with reference to the same period and to the same point of offer.

40. From the date of responsibility taken for the function as guarantor for the supplying of electrical power to clients bound by the one-man business vendee, the imported contracts of ENEL Spa and destined to the bound market that were in force the date the legislative decree 16th March 1999 n. 79 became effective, can be transferred to the same Acquirente unico Spa by decree of the Minister of the Production Activities in agreement with the Minister of Finance guaranteeing the transferring party the benefit derived by the difference between the price of the power imported through the contracts

handed over and the price of the nationally produced electrical energy . The Authority of the electric energy and gas determines the technical and economical procedure for the above-mentioned transfer.

41. By request of the producer, the electrical energy that is produced by the plants with less than 10 MVA power, the electrical energy that is mentioned in the second period of the paragraph 12 of article 3 of the legislative decree 16th March 1999 n. 79, as well as the energy that is produced by installations that started to operate after the 1st of April 1999 fed by wind, solar and geothermal, wave motion and hydraulic renewable sources, the last one limited to installations with flowing water, is withdrawn by the Operator of the national communication network company limited by shares or by the distributing company respectively if produced by installations connected to the communication network or to the national grid. The electrical energy indicated in the first and second period of paragraph 12 of article 3 of the legislative decree 16th March 1999 n. 79, continues to be withdrawn by the Operator of the national communication network company limited by shares. The Authority of the electrical energy and gas determines the modalities of withdrawing of the electrical energy indicated in the first period of the present paragraph depending on the economic conditions of the market. The electrical energy indicated in the first and third period of the present paragraph 12 of the article 3 of the legislative decree 16th March 1999 n. 79, excluding the one indicated in the first period of the present paragraph, is handed over to the market after the expiring of the current policies.

42. National producers of electrical energy can, jointly with foreign industries, carry out the realization and management of plants located abroad even with the purpose to import the produced energy.

43. For the amendment of the regulation of the electric service in small isolated networks disciplined in article 2, paragraph 17 of the legislative decree 16th March 1999 n. 79, as well as the service offered by the minor electrical companies indicated in article 4 number 8 of the law 6th December 1962 n. 1643 and following amendments indicated in article 7 of the law 9th January 1991 n. 10, the Government is delegated to adopt a legislative decree within 6 months after the date the present law is effective respecting the constitutional prerogatives of the regions. This legislative decree is in accordance with the following criteria and guiding principles:

a) Tutelage of the final customer and, where it's possible according to the technical and economical conditions, development of the interconnection with the national communication network;

b) Definition of temporal objectives to improve the efficiency and the inexpensiveness of the service given by the companies by identifying specific parameters in order to determine the tariff integrations;

c) Forecast of substitutive interventions to guarantee the continuity and the quality of the supply.

44. In order to reach the objectives indicated in paragraph 7, letter r) and without this causing new and greater expense for the public finance, the Government is delegated to adopt, within six months after the present law becomes effective, a legislative decree proposed by the Minister of the Production Activities in agreement with the Minister of Environment and Protection of the Environment. This decree needs to respect the constitutional prerogatives of the regions and the following criteria and guiding principles:

a) Reorganization of the regulations of the technical plant engineering inside the buildings;

b) Promotion of a real system of inspections of the plants indicated in letter a) to ensure that what is provided for in the present regulations is respected and with the primary objective to protect the users of the plants guaranteeing an effective safety.

45. The paragraph 7 of the article 9 of the legislative decree 16th March 1999 n. 79 is replaced by the following:

“7. Holders of distribution authorizations can form one or more companies limited by shares that they control and to which they transfer the goods and relations, the assets and liabilities concerning the distribution of the electrical energy and the sale to bound clients. The Authority for the electrical energy and gas provides and enact the principles for an appropriate course of action of an operational and administrative separation of the activities exercised by the above mentioned companies”.

46. As from the date the present law became effective, in order to ensure the supply of natural gas to the final clients that are connected to the network and have a consumption lower or equal to 200.000 standard cubic metres per year, and those that are, even temporarily, without supplier or that live in a geographic area where a competitive market offering gas has not yet been developed, the Authority for the electrical energy and gas should identify one or more companies that sell gas and that undertake the carrying out the supply to the indicated geographic areas.

47. The supplying of natural gas as disciplined in paragraph 46, following the market conditions, is carried out by the identified companies, according to the same paragraph, within the set time limit of fifteen days starting from the date the request from the final client is received. The same supply, including the limits and the aspects relevant to the physical and commercial balancing, is carried out by the selling companies on the basis of addresses established by the Minister of the Production Activities, in accordance with the Authority of the electrical energy and gas, and that are to become effective within three months after the present law becomes effective.

48. The possibility disciplined in the article 7, paragraph 5 of the legislative decrees 23rd May 2000 n. 164 remains.

49. In order to guarantee the safety of the national system of gas and the accomplishment of the transition of it to the new structures, the terms disciplined in the article 28, paragraph 4, and in the article 36 of the legislative decree 23rd May 2000 n. 164 have been put off until 31st December 2005.

50. The assignments of gas carried out in the system of natural gas disciplined in article 2, paragraph 1 letter e) of the legislative decree 23rd May 2000 n. 164, are to be considered effective in the moment of payment of the compensation, as disciplined in the article 6 of the decree of the President of the Republic 26th October 1972 n. 633 and following amendments, except for the disposal of the fourth paragraph of the same article 6.

51. Paragraph 5 of the article 16 of the legislative decree 23rd May 2000 n. 164 is abrogated.

52. In order to guarantee the security of supply and the primary levels of service in the storage sector and sale of liquefied petroleum gas (LPG), the Government is delegated to adopt a legislative decree that rearranges the regulations of the installation and employment of systems of refilling, extravasations and depositing of LPG as well as the employment of distribution systems of LPG. By proposal of the Ministers of the Production Activities, of Finance, of the Environment and protection of the Environment in accordance with the permanent Conference for the relations between the State, the

regions and the independent provinces of Trento and Bolzano, the legislative decree is adopted on the basis of the following criteria and guiding principles:

a) Ensure adequate safety levels even through the revision of the technical rules in force considering the authority of the Ministry of the Interior in the matter of issuing technical rules for fire prevention and the authority of the Ministry of the Environment and the Protection of the Environment in the matter of the industrial risk prevention and protection;

b) Guarantee and improve the service to the consumers also through the definition of the technical and professional requirements for the use of the activity and the adjustment of the regulations concerning logistics, marketing and plant engineering;

c) Revise the relevant system of sanctions, introducing proportional and dissuasive sanctions.

53. In order to promote the use of LPG and methane for motor traction, in the article 1, paragraph 2 of the legislative decree 25th September 1997, n. 324, converted, with amendments, by the law 25 November 1997 n. 403, the sentence “within one year after the date of registration” is replaced by the following sentence: “within three years after the date of registration”.

54. The contributions disciplined in article 1, paragraph 2, of the legislative decree 25th September 1997 n. 403, as amended by paragraph 53, are paid also in favour of the juridical persons.

55. The regions exercise the administrative functions in matter of the processing, storage and distribution of mineral oils not in exclusive right of the State as disciplined in paragraph 7.

56. Maintaining what is provided for in paragraph 2 letter a) the following are to be considered activities subjected to authorization regimes:

- a)* the installation and employment of new plants of processing and storage of mineral oils;
- b)* the abandonment of plants for working and storage of mineral oils;
- c)* the variation of the total capacity of the plants to process mineral oils;
- d)* the variation of over 30% of the authorized total capacity of storage of mineral oils.

57. Authorization is released by the region on the basis of the course and general objectives of the energetic politics provided for in the paragraphs 3, 4 and 7, according to the regulations in force in environmental, sanitary, tax, safety, fire prevention and marine domain matters.

58. The changes made to the processing plants or to the storage of mineral oils, not included in the activities indicated in the paragraph 56 letters c) and d) as well as the changes made to the oil pipelines, are freely carried out by the operator observing the regulations in force in environmental, sanitary, fiscal, safety, fire prevention and marine domain matters.

59. In order to promote the expansion of the energetic offer and to improve the security of the provisioning and to guarantee an efficient set up of the energetic infrastructure, the Minister of the productive activities can conclude program contracts for investments in works located in the depressed areas of the Country and defined as works of public utility in pursuance of the paragraph 1 of the article 1 of the legislative decree 7th February 2002 n. 7, converted, with amendments, by the law 9th April 2002 n. 55. These contracts are to be stipulated upon specific authorization of the interdepartmental committee for the economic planning according to the article 1, paragraph 3 of the decree 22nd October 1992 n. 415, converted, with amendments, by the law 19th December 1992 n. 488, and according to the applicable legislation. A special regulation issued by decree of the Minister of Finance in agreement with the Minister of the Production Activities defines the conditions of admissibility and the operating modality of the government intervention.

60. In the cases provided for by the regulation in force, the procedure of evaluation of the environmental impact is applied to the carrying out and strengthening of regasification terminals for liquefied natural gas including the connected works, according to the dispositions disciplined in the law 21st December 2001 n. 443 and in the article 8 of the law 24th November 2000 n. 340. The dispositions disciplined in the article 8 of the law 24th November 2000 n. 340 are valid also for the carrying out of underground storage of natural gas, granting the pursuance of the procedure of evaluation of the environmental impact, where decreed.

61. The holders of underground storage authorizations of natural gas can benefit from not more than two extensions of ten years each in case they have carried out the storage programs and fulfilled every obligation derived by the same authorizations.

62. The Ministry of the Production Activities promotes, in agreement with the Ministry of the Interior, the Ministry of the Environment and Protection of the Environment and with the Ministry of the Infrastructures and Transport, one or more agreements on programs with the concerned operators, with the research institutions and with the concerned regions for the use of liquid hydrocarbons derived by methane. These agreements do not add new or heavier burdens for the public finance.

63. In order to gain the concession of contribution for the achievement of secondary adductors that have the characteristics of public infrastructures, provided for by the article 11 of the law 28th November 1980 n. 784 and subsequent amendments, the following expenses are admissible: designing, supervision of works and security; servitude, damage, concessions and related expenses; material, transport, work of civil constructions, assembling and internal costs; and a possible archaeological tests when needed.

64. In the case the communes or their associations make use of concessionaries for the construction of the distribution system for natural gas, the expenses admissible for the funding according to the law 28th November 1980 n. 784, include the direct allocation of expenses, the expenses of the companies directly or indirectly involved in the building of the goods, for the expense chargeable to single goods. The above-mentioned expenses cover the general expenses by maximum 5% of the total cost of the goods. The larger expenses that go beyond the amount approved by the decree for the concession of contribution are not admissible.

65. For the projects admitted to the benefits that are disciplined in the paragraphs 63 and 64, the gas company and the concessionary firm present a declaration to the Minister of the Production Activities by the representative lawyer, together with the state of final progress, testifying that the actual cost for the fulfilment of the works is not lower than the cost determined in the preliminary inquest. In the case the effective cost comes out to be lower than the total cost determined in the preliminary inquest, the gas company and the concessionary firm present the final documentation of expenses enclosing a declaration by the representative lawyer that indicates the variations intervened between the cost admitted to funding and the effective cost of the single fulfilled works. The contribution is calculated on the basis of the effective cost.

66. The concessionary firm with methane supply is not obliged to request the certification from the commune for the presentation of the intermediate state of progress of the work as disciplined in the article 11 of the law 28th November 1980 n. 784 and following modifications.

67. The due date for the presentation of the documentation of total cost and inspection to the Minister of the Production Activities, provided for by the article 1, paragraphs 1,2 and 4 of the law 30th November 1998 n. 416, that was already deferred to 31st December 2002 by the article 8-quinquies of the legislative decree 23 November 2001 n. 411, converted, with amendments, by the law 31 December 2001 n. 463, is further deferred to 30th June 2005.

68. In the paragraph 10-bis of the article 15 of the legislative decree 23rd May 2000 n. 164 the words “starting from” are replaced by the following: ”and the period indicated in paragraph 9 of the present article start with” and the words “two years” are replaced by the following: “four years”.

69. The disposition disciplined in the article 15, paragraph 5 of the legislative decree 23rd May 2000 n. 164, relevant to the transitory regulation of the probations and concessions existent the 21st June 2000, date when the same legislative decree became effective should be interpreted in the way that the right of an anticipated redemption during the period of transition is possible if it's established in the relevant act of probation and concession. This right should be exercised according to the rules established therein. The tenders are carried out according to the article 14 of the legislative decree 23rd May 2000 n. 164. The period of transition indicated in the mentioned article 15, paragraph 5, finishes within 31st December 2007 and the right of the local entrusting or grantor company to extend for one year the duration of the period of transition if there are recognized reasons of public interest is maintained. This extension must take place within six months after the present law became effective. Paragraph 8 of the article 15 of the same legislative decree n. 164, year 2000 is abrogated.

70. In order to diversify the energetic sources safeguarding the security of the supplying and of the environment, the Ministry of the Production Activities promotes, in agreement with the Ministry of the Environment and the Protection of the Environment and with the Ministry of the Infrastructures and Transport, one or more agreements, that do not add new or heavier burdens for the public finance, on programs with the concerned operators, with the research institutions and with the concerned regions

for the research and use of advanced and environmentally sustainable technologies for the production of electrical energy or of coal fuel.

71. The electrical energy produced using hydrogen, the energy produced in static plants using hydrogen or using combustible cells and also the energy produced in plants of cogeneration linked to district heating, within the limits of the quantity of thermal energy really used for the district heating, are entitled to the emission of green certificates provided for by the article 11 of the legislative decree 16th March 1999 n. 79 and following amendments.

72. The article 23, paragraph 8, third period, of the legislative decree 11th May 1999 n. 152, is applicable also to small derivations of hydroelectric use appurtenance of others than Enel Spa upon presentation of a request within December 31st.

73. The primary energy conservation obtained thanks to the production and use of heat from sources of renewable energy forms a suitable measure for the achievement of the objectives indicated in the legislative measures of the article 9, paragraph 1 of the legislative decree 16th March 1999 n.79 and of the article 16, paragraph 4 of the legislative decree 23rd May 2000 n. 164.

74. In the second period of paragraph 1, article 15 of the legislative decree 16th March 1999 n. 79, after the word: “persons” the following words are added: “different from the ones indicated in the third period,”.

75. In paragraph 1 of the article 15 of the legislative decree 16th March 1999 n. 79, after the second period, the following is inserted: ”The receivers of the incentive for the establishment of plants fed only by renewable sources that do not respect the date of going into operation indicated in the convention and in the relevant modifications and integrations, are considered renouncers if they haven’t given suitable proof to the Authority of the electrical energy and gas that they have really begun the carrying out of the initiative through the acquisition of the availability of the areas destined to house the plant, and have also accepted the estimate of expenditure for the connection to the electricity system expressed by the competent operator, or started the calling for tenders or done stipulation of contracts for the acquisition of machinery or for the construction of works relevant to the plant, or done

stipulation of contracts for financing the initiative or the achievement of incentives in the manner provided for by other laws at the expense of the national budget. The receivers of the incentive that have fulfilled the onus indicated in the third period are not considered renouncers and lose the rights of the incentive provided for in the limits corresponding to the accumulated time lag.

76. The Ministry of Production Activation, in agreement with the Ministry for the Environment and Protection of the Environment after with the advice of the Ministry of Agriculture and Forestry stipulate an agreement of a five-year period program with the Company for the new technologies, the energy and the environment (ENEA) to put into practice the back-up measures for the diffusion of the renewable sources and for the efficiency of the final use of the energy. New or heavier burdens for the public finance cannot derive from the above-mentioned agreement.

77. The research permit and the concession for exploitation of hydrocarbons on dry land form the right of the construction of the plants and the necessary works, of the modification interventions, of the connected works and of the infrastructures necessary for the exercise, that are declared of public utility. They fully replace authorizations, permits, concessions and acts of approbation however denominated in the manner provided for by the effective rules, maintaining what is established by the legislative decree 25th November 1996, n. 624.

78. The permit and the concession indicated in paragraph 77 are released following a sole proceeding in which the public, regional and local concerned administrations take part, carried out with respect to the principles of simplification and the modalities disciplined in the legislative decree 25th November 1996, n. 624.

79. The procedure of evaluation of the environmental impact, where requested by the rules in force, is concluded within the terms of three months for the activities on dry land and within the terms of four months for the activities in sea and constitutes an integral part and necessary condition of the authoritative proceedings. When the set time limit has passed, the administration expert in the field of evaluation of environmental impact expresses itself during the conference of service convoked according to the law 7th August 1990, n. 241.

80. In the case of research permits, the inquest is concluded within six months after the date of conclusion of the proceedings disciplined in the legislative decree 25th November 1996, n. 625.

81. In the case of concessions of exploitation, the inquest is concluded within six months after the date of presentation to the competent administrations of the study of the environmental impact.

82. The acts indicated in paragraph 77 point out the prescriptions and the obligations of background information charged to the applicant in order to guarantee the protection of the environmental and arts. If the works indicated in paragraph 77 lead to variations of the town planning instruments, the release of the authorization or of the concession indicated in the same paragraph 77 has the effect of a town planning variation.

83. The dispositions indicated in paragraphs 77 and 82 are applicable also to the proceedings in action the date the present law became effective, except the ones for which the evaluation proceeding for the environmental impact is completed, that is to say the ones for which the relevant proceeding is coming to a conclusion on request of the proposer.

84. The aggregate value of the set measures, due to specific agreements between the region and the involved local companies and the holders of concessions for cultivation of hydrocarbons on dry land, that had not yet started to produce the date the present law became effective, as a compensatory contribution for the fact that the territory was not used alternatively due to the construction of the plants and necessary works, to the interventions of modifications, to the connected works and to the necessary infrastructures, cannot exceed the aggregate value by 15% of what is owed to the region and the local companies for the rate of product of the cultivation.

The region competent for the territory provides for the distribution of the compensatory contribution with the local companies involved. The default of subscription of the agreements does not represent a reason to interrupt the work necessary for the production of the deposits of hydrocarbons or to postpone the start of the exploitation.

85. A plant is for micro-generation when it is a plant for the production of electrical energy, even in a co-generative structure, with generating capacity not higher than 1 MW.

86. The installation of a micro-generation plant is, as long as it is homologated, subject to simplified authoritative rules. In particular, if the plant is thermoelectric, it is subject to the same technical and authoritative duties as a plant for generation of heat with the same thermal potential.

87. The value of the green certificates issued according to the legislative decree 16th March 1999 n. 79 is established as 0.05 GWh or multiples of the same quantity.

88. Within six months starting from the date the present law becomes effective, in agreement with the Minister of the Environment and the Protection of the Environment and the Minister of the Interior, the Minister of the Production Activities issues, through his own decree, the rules for the type-testing of the plants for micro-generation, determining the limits of their emission, noise and safety criteria.

89. Starting from year 2005, the Authority of the electrical energy and gas annually carries out a monitoring of the development of the plants for micro-generation and sends out a report about the effects of the generation distributed on the electrical system to the Ministers indicated in paragraph 88, to the united Conference and to the Parliament

90. The paragraph 4 of the article 2 of the legislative decree 31st January 2001, n. 22 is replaced by the following:

“4. The person introducing the use of products indicated in paragraph 1 is obliged to maintain the imposed supply independent of the kind of activity that is carried out and of the authorized capacity of the plant where the introduction was made”.

91. After the paragraph 1 of the article 3 of the legislative decree 31 January 2001, n. 22 the following is inserted:

“1-bis. For the only reason to fulfil the obligation established annually by the A.I.E. indicated in paragraph 1, the product Orimulsion can be equalized to the petroliferous products indicated in annex A of the present decree, within the measure established by the annual decree of definition of the obligation

of supply indicated in article 1. For this product the introduction of use is deduced by the occurred improvements of the customs fulfilment for the importation.

92. The article 8 of the legislative decree 31st January 2001 n. 22 is abrogated.

93. In order to get the best implementation of the rules about the rates of product of the cultivation, after the paragraph 5 of the article 19 of the legislative decree 25th November 1996, n. 625, it's inserted the following:

“5-bis. For the productions made starting from 1st January 2002 the unitary values of the rate of cultivation are determined:

a) for the oil, for each concession and each owner herein specified, as ponderal mean of the selling prices billed in the reference year. When the oil is used directly by the concessionaire, the value of the rate is established by the concessionaire himself on the basis of the prices of the reference international market of flocks with similar features, with regards to the differential of the production yields.

b) for the gas, for all the concessions and all the owners, according to the arithmetic mean referring to the reference year of the index QE, energetic quote of the price of the gas raw material, in euros for MJ, specified by the Authority of electric energy and gas according to the decision 22nd April 1999, n. 52/99, published on the Official Gazette n.100 of 30th April 1999 and following amendments, considering the equivalence 1 Smc lm= 38,52 MJ. Starting from 1st January 2003, the updating of this index, just for this article, is carried out by the Authority of electric energy and gas on the basis of the parameters of the abovementioned decision”.

94. After the paragraph 6 of the article 19 of the legislative decree 25th November 1996, n. 625, it's inserted the following:

“6-bis. For the productions of gas made starting from 1st January 2002, in order to consider any charges, included those referring to the cultivation, the working and the transport, instead of the reductions of the paragraph 6, the amount of the yearly production of gas exempt from the rate for each cultivation concession, as in the paragraph 3, is by 25 millions of Sms of gas for the productions in mainland and 80 millions of Sms of gas for the offshore productions”.

95. The unitary value of the rates related to the gas productions of the years after the coming into effect of the legislative decree 25th November 1996, n. 625, up until 2001, if is valid the possibility to

assign unequivocally to singular cultivation concession the related billed average price, every owner can determine it as ponderal mean of the selling prices he billed in all the concessions, for which the abovementioned unequivocal assignment is not possible.

96. After the paragraph 2 of the article 40 of the legislative decree 25th November 1996, n. 625, it's inserted the following:

“2-bis. The owners of the cultivation concessions, who lodged petitions of exemption according to article 26 of the law 9th January 1991, n. 9, whose assessments are not finished, send within 31st December 2004 the updating of the lists of paragraph 2 with regards to the works that were in progress on 31st December 1997. The updating, signed by the legal representative of the concessionaire or by his deputy, shows also the amount of the likely rates unpaid and has enclosed copy of the payment, within the same date, definitively, of the 80 % on the mentioned amount”.

97. The paragraphs 3, 4 and 5 of the article 40 of the legislative decree 25 November 1996, n. 625, are abrogated.

98. In addition to the provisions of the decree 14 November 2003, n. 314, passed, with amendments, by law 24 December 2003, n. 368, the management and the security of the radioactive waste, inclusive of the elements of radiated nuclear fuel and nuclear materials present on the whole national land, are carried out according to the provisions of paragraphs 99 and 106.

99. The SOGIN Spa (Nuclear Plants Management Company) provides the security and the provisional storage of the radioactive waste of Third category, in the places located with the same procedures of the security and provisional storage of the radioactive waste of First and Second category specified in the article 3, paragraph 1-bis, of the decree 14th November 2003, n. 314, passed, with amendments, by law 24th December 2003, n. 368.

100. With the procedures of the article 1, paragraph 1, of the decree 14th November 2003, n. 314, passed, with amendments, by law 24th December 2003, n. 368, is located the place for the defined placement of the waste of Second category. The works in progress in mentioned paragraph and in paragraph 99 are works of public utility, undelayable and urgent.

101. In the decree of the President of the Council of Ministers, proposed by the Minister of Production activities, in agreement with the Minister of Environment and protection of the environment

and the Minister of Economy and Finance, to be accepted within twelve months from the date of coming into effect of this law, are specified all the criteria and the methods of coverage of costs referring to the security and storage of the radioactive waste, uncovered by the general charges related to the electric system in the decree 18th February 2003, n. 25, passed, with amendments, by law 17th February 2003, n. 83. From the provisions of the mentioned comma new or higher expenses can be charged to the National budget.

102. In order to contribute to the reduction of the general expenses related to the electric system, as in the decree 18th February 2003, n. 25, passed, with amendments, by law 17th April 2003, n. 83, as well as the security of the national electric system, the SOGIN Spa, with the advice of the Ministry of Production Activities in agreement with the Ministry of Environment and protection of the environment, enhances the existing places and the infrastructures.

103. In order to have the best improvement and utilization of the facilities and competences developed, the SOGIN Spa carries out activities of research, consultancy, assistance and service of all the sectors referring to the company object, particularly in the energy, nuclear and environmental protection field, even abroad. The activities of this paragraph are carried out by the same company, in book-keeping separation regime, also through joining temporarily ventures.

104. Persons producing and owning radioactive waste, as in paragraph 100, give, in obedience of the community and national laws, even with regard to the developments of techniques and directions of European Union, such waste for the security and storage to the deposit as in comma 100 or that in article 1, paragraph 1, of the decree 14th November 2003, n. 314, passed, with amendments, by law 24th December 2003, n. 368, according to the belonging category. With decree of the Minister of production activities, in agreement with the Minister of Environment and protection of the environment, are specified the times and technical methods of giving.

105. Unless the fact is a serious offence, anybody omitting to carry out the giving as in the paragraph 104, is punished with arrest up until 2 years and a fine as much as 1.000.000 euros. Anybody breaking the technical rules and the methods specified in the decree as in paragraph 104, is chargeable with the administration penalty of paying a sum not lower than 100.000 euros and not higher than 300.000 euros.

106. To the decree 14th November 2003, n. 314, passed, with amendments, by law 24th December 2003, n. 368, are introduced the following amendments:

a) to the article 1, paragraph 1, second clause, after the words: “it’s carried out” are inserted the following: “, guaranteeing the health protection of the people and the workers as well as the environment from the ionising radiations,”;

b) to the article 1, paragraph 1, second clause, after the words: : “according to the geomorphological characteristics of the soil” are inserted the following: “and according to the anthropic conditions of the soil”;

c) to the article 2, paragraph 3, second clause, the words: “one of them with functions of president” are abolished;

c) to the article 2, paragraph 3, after the second clause is inserted the following: “The President of the Committee is appointed with relevant decree of the President of the Council of Ministers, together with the unified Conference as in article 8 of legislative decree 28th August 1997, n. 281, without more expenses charged to the public finance”.

107. In the decree of the Minister of the production activities, with advice of the Authority of electric energy and gas, are specified the technical characteristics and the methods of access and connection amongst the national energy networks and those of the Countries whose land is entirely inside the Italian land.

108. The generator units contribute to the safety of the operation of the distribution and transport networks with powers insertable on demand by the local supplier or Company of the national transmission network Spa, according to methods specified by Authority of electric energy and gas, upon advice Company of the national transmission network Spa.

109. From the date of coming into effect of this law and up until 31st December 2007, the plants recognised by the Company of the national transmission network Spa according to decree of the Minister of Industry, Trade and Crafts 11th November 1999, published on the Official Gazette n. 292 of 14th December 1999, using, for the production of electric energy in combustion, animal flours object to disposal according to the decree 11th January 2001, n. 1, passed, with amendments, by law 9th March 2001, n. 49, can attribute to renewable source the production of electric energy to the extent of 100% of the difference got applying the calculus of the article 4, paragraph 1, letter c), of the abovementioned decree of the Minister of Industry, Trade and Crafts 11th November 1999, with exclusive reference to the electric energy attributable to animal flours and net of the average production of electricity attributable to renewable sources in three-year period before 1st April 1999. The production of electric energy in this paragraph cannot be object to further ways of promotion and support.

110. Starting from the date of coming into effect of this law the charges for the activities carried out in the offices of the General Department of the energy and mineral resources of the Ministry of production activities, such as authorizations, permissions and concessions, aiming at the realization and control of plants and energy infrastructures within the State competence, whose value is higher than 5 millions of euros, but for exception provided with decree of the President of the Council of Ministers, in agreement with the Minister of production activities, for the related technical and administrative preliminary inquiries and the consequent logistic and operation needs, are charged to the applicant with the payment of contribution not higher than 0,5 per cent of the value of works to carry out. The obligation of payment is not imposed to the plants and infrastructures, whose preliminary inquiry is over by the date of coming into effect of this law.

111. The charges of the preliminary inquiries as in the paragraph 110, including the charges of functioning of the consulting bodies, working in the General Department of the energy and mineral resources, appointed to give advices for the inquiry in the paragraph 110, are paid within the sums coming from the payments as in the paragraph 110 that, to that end, are paid for the income of the State budget, in order to be re-charged to the budget of the Ministry of production activities.

112. The State is still charged of the expenses related to the activities carried out by the National mining Bureau of the hydrocarbons and geothermal energy for the prevention and verification of the accidents and the protection of the industrial health in the plants and processes subject to the rules of mining police, as well as for the controls of production and protection of deposits.

113. In the article 22, paragraph 2, law 9th January 1991, n. 10, are abolished the words: “ no more than once”.

114. In the article 2, paragraph 15, legislative decree 16th March 1999, n. 79, the second clause is abolished.

115. In order to guarantee the carrying out of the duties provided for by this law, and within the actual availabilities coming from the payments in the paragraph 110 to the General Department of energy and mining resources of the Ministry of production activities, it's allowed to appoint, within disposable resources, no more than further twenty experts with the same procedures provided for by article 22, paragraph 2, law 9th January 1991, n. 10, and related regulations.

116. In order to guarantee the best functionality of the tasks given to the Ministry of production activities as for the energy field, for the salary of the staff, managerial as well, belonging to the Ministry of Industry, Trade and Crafts, it's authorized the charge of 2.000.000 euros starting from 2004. With decree of the Minister of production activities, to be issued within thirty days from the date of coming into effect of this law, are specified the criteria for sharing the sum in the previous clause, with effect from 1st January 2004.

117. The charge coming from carrying out the paragraph 116, i.e. 2.000.000 euros a year for 2004, 2005 and 2006, is provided reducing the authorization of the expense in article 1, paragraph 43, law 28th December 1995, n. 549, as eventually refunded in table C, item "Ministry of production activities", enclosed in law 24th December 2003, n. 350.

118. In the article 2 of law 14th November 1995, n. 481, are introduced the following amendments:

a) in the paragraph 28, the word "eighty" is changed with the following: "hundred and twenty";

b) in the paragraph 30, the word "forty" is changed with the following: "sixty".

119. In order to increase the safety and the efficiency of the national energy system, through interventions of differentiation of sources and efficient use of the energy, the Ministry of production activities:

a) Carries out, from 2004 to 2006, in agreement with the Ministry of Environment and Protection of environment, a national plan of education and information about the saving and efficient use of energy, within the yearly expense of 2.520.000, 2.436.000 and 2.468.000 euros respectively;

b) Carries out, from 2004 to 2006, in agreement with the Ministry of Environment and Protection of environment, pilot studies for saving and controlling the consumption of energy in the buildings used as offices by public administrations, within the yearly expense of 5.000.000 euros;

c) Develops the operation capacity of the General Department of energy and mining resources, increasing, just for 20 units, departing from the current regulations, the personnel, by recruiting in the three-year period 2004-2006 and with contracts with high-skilled staff as for energy subjects, with a limit of charge of 500.000 euros a year;

d) Promotes, in agreement with the Ministry of Environment and Protection of environment, in execution of the current agreements of international cooperation, feasibility studies and research plans as regards clean technologies of coal and with "zero emission", plans of cutting off carbon dioxide and hydrogen cycle, granting the national participation to the abovementioned agreements, with a limit of charge of 5.000.000 euros a year, from 2004 to 2006;

- d)* Supports, charged to the authorization of expense in letter d), the charges of participation to the International Energy Forum and promotes the activities, foreseen for the period 2004-2006, needed for the organization of the International Conference, hosted by Italy as rotating chairmanship.

120. The charge coming from the carrying out of paragraph 119, of 13.020.000 euros for 2004, 12.936.000 euros for 2005 and 12.968.000 euros for 2006, is provided, as much as 3.020.000 euros for 2004, 2.936.000 euros for 2005 and 2.968.000 euros for 2006, through subsequent reduction of the allocation entered, as for the three-year period balance 2004-2006, in the basis anticipatory unit of current part “Special fund” of the budget of Ministry of Economy and Finance for 2004, using the provision related to Ministry of production activities and, as for euros 10.000.000 for each year 2004, 2005 and 2006, through consequent reduction of the allocation entered, as for del same balance 2004-2006, within the limits of the basis anticipatory unit of the capital account “Special fund” of the estimate state budget of Ministry of Economy and Finance for 2004, in order to use the provision of the Ministry of production activities.

121. The Government is appointed to adapt, within twenty-four months from the date of coming into effect of this law, one or more legislatives decrees for the reorganisation of the current regulations as for energy, according to criteria and principles as in article 20 of law 15 March 1997, n. 59, and following amendments, with regards to following regulatory criteria and principles:

a) enunciation of the laws in sectors, considering the organization of the reference markets and the demands of adjustment in the different sectors coming from the results of the process of liberalisation and formation of the European inner market;

b) adaptation of the community laws and the international agreements, in force also in the national set of laws at the time of appointing, according to the competences given to the central and regional administrations;

c) promotion of the competition in the energy sectors causing the procedure of liberalisation, with regards to the regulation of the services of public utility, direction and control of the Ministry of production activities;

d) promotion of the technology innovation and the research about energies in order to be competitive of the national production system.

This law, with the Great Seal, will be inserted in the Official body of the regulatory acts of the Italian republic, is compulsory for anybody forced to abide it and make it comply as State law.

Date in Rome, on the 23rd August 2004

CIAMPI

Berlusconi, President of Council of Ministers

Marzano, Minister of production activities

Seen, the Minister of Justice: Castelli

PRELIMINARY WORKS

CHAMBER OF DEPUTIES (ACT N. 3297)

Lodged by Minister of production activities (Marzano) on 22nd October 2002.

Assigned to X Committee (Production activities), at referring stage, on 6th November 2002 with advices of I, II, V, VI, VII, VIII, IX, XII, XIV Committees and Parliamentary for regional issues.

Examined by X Committee on 20th November 2002; 3, 4, 10, 11, 17, 18, 19 and 22nd November 2002; 22nd January 2004; 12, 18, 20, 25, 26 and 27th February 2003; 6, 11, 13, 18, 20, 25 and 26th March 2003; 9, 10, 15 and 16th 2003; 8, 13 and 14th May 2003; 11th June 2003.

Report lodged on 13th June 2003 (act n. 3297-8-1378-2219-2567/A – sponsor on. Saglia).

Examined in hall on 16, 19th June 2003 and 15th July 2003, approved on 16th July 2003.

SENATE OF REPUBLIC (ACT N. 2421)

Assigned to Tenth Committee (Industry), at referring stage, on 18th September 2003 with advices of 1st, 2nd, 4th, 5th, 6th, 7th, 8th, 9th, 11th, 12th, 13th, 14th Committees, Board for European Community affairs and Parliamentary for regional issues.

Examined by 10th Committee on 18th September 2003; 16, 17th December; 13, 20, 21, 22, 27th and 28th January 2004.

Report lodged on 12th February 2004 (act n. 2421-408-1142-1580-1634-1861, 2328/A – sponsor Sen. Pontone).

Examined in hall on 25th March 2004 and 6th April 2004, approved, with amendments, on 26th may 2004.