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Note

Report on the evaluation of various issues relating to the use of RES electricity

I. Reporting requirements pursuant to the Directive

A. Pursuant to Article 6(2) of Directive 2001/77/EC of the European Parliament and of the Council of 27 September 2001 on the promotion of electricity produced from renewable energy sources in the internal electricity market, Member States are to publish a report on the evaluation they have made pursuant to Article 6(1) of the Directive of the existing national legislative and regulatory framework with regard to authorisation procedures or the other procedures laid down in Article 4 of Directive 96/92/EC, which are applicable to production plants for electricity produced from renewable energy sources.

B. Pursuant to Article 7(7) of the Directive, Member States are, in the above-mentioned report, also to consider the measures to be taken to facilitate access to the grid system of electricity produced from renewable energy sources.

II. Authorisation procedures etc.

A. Electricity Supply Act

Pursuant to Section 10, paragraph 1, of the **Electricity Supply Act**, only undertakings which have electricity production plants with a capacity in excess of 25 MW require a licence.

Licences are issued to electricity producers who own plants with a capacity in excess of 25 MW. A licence covers the holder's entire operations, and licences are not required for individual plants owned by the licence-holder. The current [*sentence incomplete in original*]

Pursuant to Section 11, paragraph 1, of the Act, permission is also required for the establishment of new electricity production plants and significant alterations to existing plants. Unlike licences, permission is granted in respect of an individual production unit. Permission is required only for RES production plants with a capacity in excess of 10 MW.

Plants with a capacity of between 200 kW and 10 MW must be notified to the Energy Authority, although wind turbines are exempt from the notification requirement.

Under these rules, only a small number of RES electricity production plants require licences or permission. Those that do are windfarms and individual central CHP plants which partly use straw and waste as their energy source. Moreover, RES electricity production plants with a capacity in excess of 25 MW are owned by big electricity-producing undertakings which already hold a licence. There has thus been no need to issue licences specifically for RES electricity production.

Special rules apply to RES electricity production plants in Danish territorial waters etc.; in practice, these are offshore wind turbines, including all offshore windfarms.

Pursuant to Section 13, paragraph 2, of the Act, permission is required for preliminary surveys and utilisation of energy sources in Danish territorial waters etc. Permission is also required for the establishment of offshore wind turbines pursuant to Section 16, paragraph 1. Under Section 17 of the Act, an EIA must be carried out before permission can be granted for the establishment of offshore wind turbines which are considered likely to have a significant impact on the environment.

Permission pursuant to Section 13, paragraph 2, for the utilisation of energy sources in Danish territorial waters may be granted following invitations to tender.

The Energy Authority issues licences and grants permission, issues invitations to tender and carries out environmental impact assessments in respect of offshore wind turbines. Ministerial **orders** have been issued concerning the performance of a number of these tasks.

Conditions and procedures relating to the issue of permits for land-based electricity production plants are laid down in Order No 493 of 12 June 2003 concerning conditions and procedures for the granting of permission for the establishment of new electricity production plants and significant alterations to existing plants.

There are rules concerning the assessment of the impact of offshore wind turbines on the environment (Order No 815 of 28 August 2000 concerning the assessment of the impact on the environment (EIA) of offshore electricity production plants).

When invitations to tender are issued in respect of wind turbines, the Energy Authority lays down and publishes the conditions to be met for obtaining permission to establish such plants.

Appeals against the Energy Authority's decisions in this connection may be submitted to the Energy Appeals Board, which is an independent body under the Ministry of Economic Affairs, Trade and Industry.

It is thus clear that only certain RES electricity production plants fall within the scope of the Electricity Supply Act's provisions on licences and permission. In the case of plants which are covered by those provisions, the Electricity Supply Act and the rules issued pursuant thereto are considered to have put in place effective, transparent and equitable procedures for promoting the establishment of RES electricity production plants.

B. Permission required under other legislation etc.

The establishment of RES electricity production plants is also covered by **other legislation** (environmental protection, land-use planning and building legislation), even if permission is not required for such plants under the Electricity Supply Act.

Such rules are especially significant in the case of land-based wind turbines, which have been built in large numbers and which have a certain impact on the local environment. Special conditions have therefore been introduced concerning the construction of such wind turbines and the processing of the relevant applications for permission:

- * special conditions and procedures have been laid down pursuant to the Environment Protection Act concerning noise limits for wind turbines;
- * special simplified requirements and streamlined procedures have been laid down in the Planning Act concerning the approval of wind turbine projects in the regional and local planning context;
- * lastly, building legislation contains special, less stringent rules on wind turbines, as the construction of a wind turbine does not require a building permit but needs only to be notified to the municipal authority responsible for building;

* a type-approval scheme for wind turbines has been introduced, based on objective, non-discriminatory principles; type-approval entails simplification of the processing of cases under the above-mentioned rules.

There is practical cooperation between the county and municipal authorities involved in the processing of applications for permission etc., and there is an administrative appeals procedure for decisions taken pursuant to the laws referred to above.

III. Grid connection

Section 67 of the Electricity Supply Act contains provisions on connecting RES electricity production plants, other than wind turbines, to the grid. Plant owners are to bear the cost of connecting to the grid at a specified level. The grid or transmission undertaking concerned must implement the connection and bear other costs associated with connection and the reinforcement and expansion of the electricity supply grid. In the case of wind turbines, the Wind Turbines Order (Order No 331 of 8 May 2003) contains rules requiring the network or transmission undertaking to implement the connection and concerning the sharing of the costs of connecting to the grid and costs arising by virtue of a wind turbine being connected to the grid.

Pursuant to Section 27c, paragraph 5, of the Electricity Supply Act, RES electricity has priority access to the electricity supply grid in the event of there being insufficient grid capacity. This form of electricity production is thus subject to downward adjustment only when other possibilities for such adjustment have been exhausted. Priorities are set by the undertakings which are responsible for the system.

It is considered that the above provisions ensure fair access for RES electricity to the electricity supply grid on objective and transparent terms.