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Order on the connection of wind turbines to the grid and on the settlement of charges for electricity generated by wind turbines

(Wind Turbine Order)

Pursuant to Sections 56(2), 59(1), 59b(3), 63a(4) and (5), 68(1) and (2), 78(3) and (8), 85a(1) and (3) to (5), 88 and 90 of the Electricity Supply Act, cf. Consolidated Act No 151 of 10 March 2003, it is promulgated as follows:

Chapter 1

Scope, definitions and common provisions

Section 1. This Order applies to land-based and offshore wind turbines generating electricity which are connected to the grid.

2. For the purposes of this Order:

- 1) “Offshore wind turbine” means a wind turbine installed in [Danish] territorial waters or in the exclusive economic zone;
- 2) “Designated wind turbine area” means an area which in a regional plan is specifically designated for the erection of one or more wind turbines; cf. Circular No 100 of 10 June 1999 on planning and permission for the erection of wind turbines;
- 3) “Settlement of charges” means settlement price and price supplement;
- 4) “Installed effect” means the nominal effect of an installed wind turbine specified in the type-approval;
- 5) “Original connection” means the first connection of a wind turbine to the grid in Denmark or abroad;
- 6) “Time of grid connection” means the time when the wind turbine supplied electricity to the collective electricity grid for the first time;
- 7) “Original production” means the electricity production estimated or computed for the operation of a wind turbine since its original connection;
- 8) “Hourly production at full load” means production corresponding to the production in one hour with the wind turbine’s installed effect;
- 9) “Electricity meter” means a meter that is used to record the electricity generation or electricity consumption of a wind turbine.

Section 2. A wind turbine can be connected to the grid only if it has been installed in accordance with the provisions of the Electricity Supply Act, the Act on the promotion of Sustainable Energy Sources, planning and building legislation and rules adopted in pursuance thereof.

2. If the conditions for connection to the grid are satisfied, the collective electricity supply undertaking is obliged to connect the wind turbine to the grid.

Chapter 2

Cost-sharing for grid connection

Section 3. On receiving a request for connection of a land-based wind turbine to the grid, the network undertaking shall determine the nearest connection point to the grid at which power can be

taken up from the new wind turbine under current network conditions; however, see Section 4. The network undertaking shall fix the voltage level.

2. The network undertaking shall bear the costs of expanding and reinforcing the grid when a land-based wind turbine is connected to the grid.

3. If a wind turbine is connected at transmission level, paragraphs 1 and 2 shall apply by analogy to the transmission undertaking.

Section 4. When one or more land-based turbines are installed in a wind turbine area specifically designated in a regional plan, the network undertaking shall be obliged to extend the grid to a connection point up to the boundary of the wind turbine area if there is sufficient certainty that the wind turbines will have a combined installed effect of at least 1.5 MW. Sufficient certainty can take the form of a bank guarantee or a corresponding security. The network undertaking shall fix the voltage level.

2. If a wind turbine is connected at transmission level, paragraph 1 shall apply by analogy to the transmission undertaking.

Section 5. When offshore wind turbines are connected to the grid that are installed within the main areas for offshore wind turbine construction laid down in the offshore wind turbine plan for Danish waters, the network undertaking or the transmission undertaking, as the owner of the grid to which the offshore wind turbines are connected offshore or on land, shall bear the costs of laying the cable network up to the point where it links up with the internal network of the offshore wind turbines. The network or transmission undertaking concerned shall fix the voltage level.

Section 6. For grid connection of offshore wind turbines not covered by the main areas referred to in Section 5, the costs of laying the cable network up to the nearest point on land shall be borne by the owner of the wind turbine. From this point, the costs of extending or reinforcing the grid shall be borne by the network or transmission undertaking as owner of the grid to which the offshore wind turbines are connected on land. The network or transmission undertaking concerned shall fix the voltage level.

Section 7. If closure of wind turbines as referred to in Sections 3, 4 or 6 also makes it necessary to defray expenditure on reinforcing the grids with voltages up to 100 kV owned by other network and transmission undertakings, such expenditure shall be borne as a part of the expenditure of these undertakings for grid connection.

2. If power from wind turbines covered by Sections 3, 4 or 6 is supplied to a network or transmission undertaking through a cable connection to which no users or other electricity producers other than wind turbines are connected, the costs of network losses in this cable connection shall be deducted from metered charges as part of the expenditure of the network or transmission undertaking involved in connecting the wind turbines to the grid.

Section 8. Expenditure on connecting the wind turbine to the grid up to the connection point referred to in Sections 3 or 4, the link-up point referred to in Section 5 or the onshore point referred to in Section 6 shall be borne by the owner of the wind turbine. Connection costs shall comprise only expenditure on installing the wind turbine, low voltage connection and connectors, installation of any local wind turbine transformers, including meters, grid connector cables, grid connection, including phase compensation, and expenditure on the processing of requests for grid connection by the collective electricity supply undertaking.

2. However, the costs of phase compensation for the reactive effect not supplied at the same time shall be borne by the network or transmission undertaking

3. The costs of maintenance of the network undertaking's meters, reading the meters and electricity billing shall be borne by the owner of wind turbine. The same applies to the costs of calibrating and replacing meters.

Section 9. Wind turbines which after 20 May 2003 are connected to the grid or to a user installation from which power can be fed into the grid shall have their own meters which must comply with the metering requirements of the undertaking responsible for the system.

2. Wind turbines which are connected to the grid not later than on 20 May 2003 and are installed in groups or wind farms shall have their own meters as referred to in paragraph 1 if power generated by the individual turbines is billed separately.

Chapter 3

Settlement of charges for existing wind turbines

Section 10. Existing land-based and offshore wind turbines are defined as wind turbines

- 1) if they were bought not later than on 31 December 1999 under a binding, unconditional contract, cf. however paragraph 3;
- 2) if they were notified not later than on 31 December 1999 under Order No 304 of 14 May 1991 on noise from wind turbines; and
- 3) for which an application was submitted not later than on 31 August 2000 for connection to the grid together with documents showing that the conditions for grid connection were met.

2. Existing land-based wind turbines shall be notified not later than on 31 December 1999 to the local authority in accordance with building regulations and

- 1) either be approved for installation not later than on 31 December 1999 under a finalised local plan under which the installation of wind turbines is expressly permitted;
- 2) or be approved for installation not later than on 31 December 1999 under a building permit including any necessary exemptions under building regulations.

3. The contracts referred to in paragraph 1(1) can only be subject to the requirement that the necessary official permits are obtained for the erection of a wind turbine not later than on 31 December 1999 and that the grid connection conditions are met not later than on 31 August 2000.

4. If a local plan is cancelled by the Nature Protection Board of Appeal because the local authority is dealing with the case, wind turbines covered by the local plan shall continue to be considered as existing wind turbines if the local authority, within six months of the Board's cancellation of the local plan, adopts a definitive plan without modification after formal publication and renewed discussion by the local authority.

5. Existing wind turbines shall be connected to the grid not later than on 31 December 2002 for the billing procedure provided for in Sections 11 and 12.

Section 11. Within a period of ten years from initial connection, electricity generated by an existing land-based or offshore wind turbine shall be billed at a charge of 33 øre/kWh plus a supplement of 10 øre/kWh; cf. however Section 14.

Section 12. In addition to the settlement of charges in accordance with Section 11, a supplement is charged amounting to 17 øre/kWh if the supply of electricity corresponds to an initial production of

- 1) 25 000 full-load hours for plants which on 1 April 2001 had an installed effect of 200 kW less,

- 2) 15 000 full-load hours for plants which on 1 April 2001 have an installed effect between 201 kW and 599 kW (both effect values included),
- 3) 12 000 full-load hours for plants which on 1 April 2001 had an installed effect of 600 kW or over.
2. If the wind turbine is erected after 1 April 2001, the installed effect shall be the effect specified in the binding contract; cf. Section 10(1)(1).
3. If the period provided for in Section 11 has expired but the full-load hour ration under paragraph 1 has not yet been used up, a supplement of 10 øre/kWh shall continue to be charged over and above the supplement provided for in paragraph. 1.
4. If the period provided for in Section 11 has expired and the supplement under paragraphs 1 and 3 continues to be charged, the electricity shall be billed on an hourly basis corresponding to the spot price in the relevant area. However, the total charge may not exceed 60 øre/kWh. If the power generated by a wind turbine is not metered on an hourly basis, the undertaking responsible for the system shall convert it to an hourly charge in accordance with its own guidelines.
5. The supplements under paragraphs 1 and 3 and billing under paragraph 4 shall cease not later than at the end of 2012.
6. If a turbine is dismantled after 1 April 2001 and re-connected elsewhere, the supplement under paragraph 1 is repealed and electricity is billed in accordance with Section 11 only.

Chapter 4

Settlement of charges for other wind turbines connected to the grid not later than on 31 December 2002

Section 13. The provisions of paragraphs 2-5 apply to wind turbines that do not meet the criteria of the definition of existing wind turbines as laid down in this Order and have been connected to the grid not later than on 31 December 2002.

2. The power generated by a land-based wind turbine is billed at a rate of 33 øre/kWh if the electricity supply corresponds to an initial production of 22 000 full-load hours.
3. The power generated by an offshore wind turbine not located in one of the main areas specified in Section 5 shall be billed at a rate of 33 øre/kWh for a period of 10 years from its initial connection to the grid.
4. Moreover, RE certificates shall be issued for electricity covered by paragraphs 2 and 3.
5. Until RE certificates have been issued, a price supplement shall instead be granted at 10 øre/kWh.

Chapter 5

Settlement of charges for household turbines

Section 14. Power fed into the grid by a wind turbine which is connected to a private user installation and which has an installed effect of 25 kW or less is, until further notice, billed by the network undertaking at the rate of 33 øre/kWh with a supplement of 27 øre/kWh.

Chapter 6

Scrapping certificate for replacement of land-based wind turbines

Section 15. The owner of a wind turbine may obtain a scrapping certificate for a wind turbine of 150 kW or less that is dismantled between 3 March 1999 and 31 December 2003, under the conditions laid down in paragraphs 2 or 3.

2. A scrapping certificate for wind turbines dismantled between 1 April 2001 and 31 December 2003 may be obtained if it appears from a statement issued by a chartered surveyor to the wind turbine owner that the wind turbine has been dismantled and removed. Moreover, it shall be clear from a statement issued by the network undertaking that the wind turbine had been erected and operated with a capacity of less than 100 kW or between 100 and 150 kW (both effect values included).

3. A scrapping certificate can be obtained for wind turbines dismantled between 3 March 1999 and 31 March 2001 upon production of a statement signed both by the relevant network undertaking and the owner of the dismantled wind turbine indicating that the turbine had been erected and operated with a capacity of less than 100 kW or between 100 and 150 kW (both effect values included) as well as the date on which it was dismantled and removed.

Section 16. The holder of a scrapping certificate is entitled to receive a supplement of 17 øre/kWh for power generated by a brand new wind turbine which the said holder erects.

2. The scrapping certificate entitles the holder to receive the supplement at three times the installed effect of the dismantled wind turbine if it had an installed effect of less than 100 kW.

3. The scrapping certificate entitles the holder to receive the supplement at double the installed effect of the dismantled wind turbine if it had an installed effect of between 100 kW and 150 kW (both effect values included) and was located at not more than 2.5 km from a wind turbine with an installed effect of less than 100 kW for which a scrapping certificate had been obtained.

4. The supplement is granted for electricity production corresponding to 12 000 full-load hours for that part of the electricity produced to which the scrapping certificate relates; cf. paragraphs 2 and 3.

5. Over and above the supplement referred to in paragraph 1, power generated by a wind turbine connected to the grid not later than on 31 December 2002 is billed in accordance with Section 13 but in such a way that the total charge does not exceed 60 øre/kWh.

6. The new wind turbine must not be connected to the grid before 1 April 2001 and not later than 1 January 2004.

Section 17. The scrapping certificate can be used only if the network undertaking certifies it before the new wind turbine is connected to the grid. The certificate should indicate for which new wind turbine the certificate is to be used. The certificate cannot subsequently be used for other wind turbines.

2. If the scrapping certificate cannot be fully used for one new wind turbine, the remaining part is invalidated.

3. The holder of a scrapping certificate that is not used for the payment of the supplement provided for in Section 16 may transfer it to others.

4. A wind turbine for which a scrapping certificate has been issued under Section 15 cannot be re-connected to the grid or to a private installation from which power can be fed into the grid.

Chapter 7

Extra supplement for particular older wind turbines

Section 18. An application for an extra supplement under Section 59 b(3) of the Electricity Supply Act must be submitted by the owner of the wind turbine to the undertaking responsible for the system not later than on 31 December 2003 in accordance with the application procedure laid down by the said undertaking.

2. The application must render account of the wind turbine's operation during the last five full financial years prior to application, specifying overall production and direct production costs. The

accounts shall be certified by an auditor confirming the accuracy of the information. If there is any doubt about the accuracy of the expenditure, additional supporting documents may be requested.

3. Direct production costs comprise expenditure on maintenance and inspection of the wind turbine, ground rent, insurance and administration.

4. On the basis of guidelines issued by the Energy Authority, the undertaking responsible for the system shall lay down procedures for processing applications for extra supplements.

Chapter 8

Special conditions for payment for particular grants for electricity generated by wind turbines connected to the grid not later than on 31 December 2002

Section 19. The undertaking responsible for the system shall decide, in accordance with Section 59 b(8) of the Electricity Supply Act, whether the owner of a wind turbine is entitled to receive extra supplements under Section 59 b(3) of the Act and 2.3 øre/kWh compensation to cover balancing expenses under Section 59 b(6) of the Act.

2. The undertaking responsible for the system shall ascertain that the owner of the wind turbine is covered by the beneficiary categories entitled to receive aid under the *de minimis* rule of the European Community. The undertaking shall also ascertain that the payment of the supplement or compensation does not lead to the current ceiling of €100 000 being exceeded within a period of three years as provided for under the *de minimis* rule of the European Community.

3. To enable the undertaking responsible for the system to take a decision, the owner of the wind turbine shall state in writing that he is aware that the supplement or compensation is received as *de minimis* aid and specify any other *de minimis* aid he receives. The owner of the wind turbine shall subsequently submit a corresponding statement if requested to do so by the undertaking responsible for the system. The statement shall be made on a form provided by the undertaking responsible for the system.

4. The supplement and compensation cannot be paid if the owner of wind turbine has, within a period fixed by the undertaking responsible for the system, failed to submit a full statement as referred to in paragraph 3 or if the specified ceiling for receipt of *de minimis* aid is exceeded.

5. On the basis of guidelines issued by the Energy Authority, the undertaking responsible for the system shall work out procedures for verification and monitoring of compliance with the rules on *de minimis* aid.

Chapter 9

Opting-out from the settlement price and the supplement

Section 20. The owner of a wind turbine may, by notifying the undertaking responsible for the system, opt out of the receipt of the settlement of prices in accordance with this Order and supplements and other payments under Sections 59 and 59 b of the Electricity Supply Act. Moreover, the owner of a wind turbine may, upon notifying the undertaking responsible for the system, resume the receipt of the said price settlement and supplements and other payments. Such notification shall be served on an application form drawn up for this purpose by the undertaking responsible for the system.

2. Opt-out and resumption pursuant to paragraph 1 shall take effect on the first day of the month, preceded by the following periods:

1) at least one month, if an RE certificate is issued or a supplement for the electricity in accordance with the provisions of Section 59 b of the Electricity Supply Act;

- 2) at least three and a half months if the electricity is settled in accordance with Sections 11-14 of the present Order.
3. Owners of wind turbines who opt out of the settlement price and the supplements under Sections 11-14 of this Order shall at the same time as notifying his opt-out inform the undertaking responsible for the system that an agreement has been concluded on the scale and balancing of electricity production.
4. The undertaking responsible for the system shall immediately inform the network or transmission undertaking through which the wind turbine is connected to the grid that it has received a notification of opt-out or resumption as provided for in paragraph 1.
5. Production covered by the opt-out as referred to in paragraph 1 shall also be included in the specification of the original production to be used in calculating full-load hours pursuant to this Order and Sections 59a and 59b of the Electricity Supply Act,.
6. Expenses incurred by the relevant network or transmission undertaking and the undertaking responsible for the system in connection with opt-out and resumption shall be borne by the owner of the wind turbine on the basis of a statement of the necessary costs incurred.

Chapter 10

Obligation to supply information

Section 21. Any owner of a wind turbine is obliged to supply the undertaking responsible for the system, transmission and network undertakings or the Energy Authority with information, including accounts and similar documents, that is necessary to implement the provisions of this Order concerning grid connection and settlement of payments.

2. The owner of a wind turbine must inform the network undertaking on any change of ownership, earlier grid connections and other circumstances that are significant for compliance with the conditions of grid connection and the settlement of payments for electricity supplied.
3. The Energy Authority may require the undertaking responsible for the system and the network undertakings to report specified information to a central national register for wind turbines.

Chapter 11

Decisions

Section 22. The net undertaking which has received or has applied for a licence for the relevant supply shall take a decision on grid connection, including on whether the conditions for connection are met. The network undertaking shall also decide how the costs are to be divided in accordance with Section 8.

2. If a wind turbine is directly connected to a transmission grid, the transmission undertaking shall take a decision on grid connection, including on whether the conditions for connection are met. Moreover, the transmission undertaking shall take a decision on how the costs referred to in Section 8 are to be divided.
3. The network undertaking shall take a decision whether a land-based wind turbine meets the criteria laid down in the definition of existing wind turbines in accordance with Section 10; however, see paragraph 5.
4. The undertaking responsible for the system shall take a decision on whether an offshore wind turbine meets the criteria of the definition of existing wind turbines in accordance with Section 10; however, see paragraph 5.

5. The Energy Authority shall take a decision on whether a wind turbine meets the criteria of the definition under Section 10 with regard to existing wind turbines in all cases in which a new wind turbine is purchased between 3 March 1999 and 31 December 1999.

Section 23. Network undertakings shall take decisions on the following:

- 1) settlement of payments for electricity generated by wind turbines in accordance with the provisions of this Order other than that provided for in Section 12(4);
 - 2) specification of full-load hours for wind turbines in accordance with the provisions of this Order and Sections 59 a and 59 b of the Electricity Supply Act.
2. If wind turbines are directly connected to the transmission network, the transmission undertaking shall take decisions as referred to in paragraph. 1.
3. The undertaking responsible for the system shall take decisions on the following:
- 1) price supplements and other payments for electricity generated by wind turbines in accordance with Section 12(4) of this Order and Sections 59a and 59b, cf. Section 59d of the Electricity Supply Act;
 - 2) issue of scrapping certificates as referred to in Chapter 6 of this Order, including the extent to which the conditions for obtaining the certificate are met;
 - 3) payment of *de minimis* aid in accordance with Section 19 of this Order;
 - 4) opt-out and resumption of payment of settlement prices and price supplements in accordance with Section 20 of this Order.

Section 24. Without prejudice to the provisions of Section 22(1) to (3) and Section 23(1) and (2), a network for transmission undertaking may apply to the undertaking responsible for the system to take decisions pursuant to the aforementioned provisions on behalf of the network or transmission undertaking. The undertaking responsible for the system can in this case demand that the network or transmission undertaking refunds the expenditure which the undertaking responsible for the system incurs as a consequence of this request.

Chapter 12

Statement of full-load hours

Section 25. The network undertaking shall compile a statement on the number of full-load hours used by 1 April 2001. The statement should be updated at every settlement of payments.

2. The statement shall be based on electricity production for which payments have been settled. If there are not settlement data going back to the date on which the wind turbine was originally connected, the missing production data shall be determined through calculations. The data for the period concerned shall be calculated by reference to a wind-corrected average calculation on the basis of the available settlement data. Wind corrections shall be made only for full years. Production in the year in which a wind turbine is connected to the grid shall for the first time be calculated on a pro-rata basis, with monthly production being regarded as 1/12th of annual production.

3. In calculating averages for use in the calculation of production data relating to a period in the past, years in which wind-corrected production deviated by 25% or more from the annual average shall not be taken into account. Settlement data relating to periods going back more than five years in the network undertaking or the undertaking responsible for the system shall be included in the calculation. If the owner of the wind turbine can provide supporting documents for electricity settlement data going back more than five years, these shall be used instead of the calculated figure.

4. If several wind turbines are connected to the same meters, production shall be divided over the wind turbines on the basis of a wind-corrected annual production per kW.

5. For wind turbines connected to a private user installation that have an installed effect of over 25 kW, the production statement shall be calculated on the basis of an annual production of 2 200 full-load hours.

Chapter 13

Verification

Section 26. The Energy Regulatory Authority shall verify compliance with the provisions of this Order or conditions laid down in decisions taken pursuant to this Order.

Chapter 14

Appeals

Section 27. An appeal against decisions taken under Sections 22(1) to (2), 23 and 24 may be lodged with the Energy Regulatory Authority.

2. Such appeals shall be made in writing within four weeks of the date on which the decisions referred to in paragraph 1 were notified. The appeal shall be submitted to the network undertaking, the transmission undertaking or the undertaking responsible for the system which shall within four weeks of receiving the appeal forward it to the Energy Regulatory Authority together with its own statement and with the information on the basis of which the decision was taken.

Section 28. An appeals against decisions taken under Section 22(3) and (4) may be lodged with the Energy Authority.

Section 29. An appeal against a decision taken under Sections 22(5), 27 and 28 may be lodged with the Energy Appeals Board.

2. The appeal shall be made in writing within four weeks of the date on which the decision referred to in paragraph 1 was taken.

Chapter 15

Penalties

Section 30. Save where a higher penalty is due under other legislation, a fine shall be imposed on anyone who

- 1) gives inaccurate information in connection with a request for grid connection and settlement of payments for electricity, or
- 2) fails to serve notice of changes in conditions that are significant for grid connection and settlement of payments for electricity or who provide inaccurate information in connection with such notice.

2. Companies etc. (legal persons) may be penalised in accordance with the provisions of Chapter 5 of the Penal Code.

Chapter 16

Entry into force and transitional provision

Section 31. This Order enters into force on 20 May 2003. At the same time, Order No 187 of 16 March 2001 on the connection of wind turbines to the grid and on the settlement of charges for electricity generated by wind turbines is repealed.

2. However, Section 12(4) takes effect from 1 January 2003.

The Ministry of Economic Affairs, Trade and Industry, 00 May 2003

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