Renewable energy generation in Norway
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Renewable energy generation in Norway consists primarily of hydro power, and increasingly in later years onshore wind. In this paper we provide a brief introduction to the main legislation relevant for hydro power and onshore wind generation in Norway as of January 2017.

Renewable generation from other sources may trigger other laws and regulations, eg. Norway has an Offshore Energy Act setting the frames for renewable energy production, conversion and transmission in the Exclusive Economic Zone (outside the territorial waters). Such other laws will not be commented here.

Offtake - sale of power

Norway is part of a mature and well established market for physical trading of power. Trading is primarily done through Nord Pool, which offer both day-ahead and intra-day markets to customers. Nasdaq Commodities represents the main financial market for power. On this market place it is also possible to obtain long-term hedges to protect against fluctuations in the power price. With relatively low power prices and rising focus on corporate green agendas there is an increasing interest for long-term corporate PPAs from green power sources. To support any counter-part risk in long-term corporate PPAs, it may also be possible to obtain a guarantee covering this risk from the public authority “GIEK” against payment of a premium.

Support scheme - El-certificates

Sweden and Norway have since 1 January 2012, had a joint market for sale and purchase of renewable electricity certificates (“El-Certificate”). The scheme is technology neutral and for each MWh produced from renewable sources the generator is awarded one El-Certificate. All energy suppliers and certain consumers are obligated by law to purchase an amount of El-Certificates corresponding to their production or consumption of energy. The support scheme is market based and the value of the El-Certificate varies.

Previously, only power plants which were operational and producing renewable power by 31 Dec 2020 were entitled to El-Certificates. This deadline has recently been extended to 31 Dec 2021. El-Certificates are issued for a period of 15 years, but no longer than to the end date 31 Dec 2035 when the scheme expires in Norway. El-Certificates will only be issued for renewable plants which have started production prior to 31 Dec 2021. Any plants (or part of plants) starting production after 31 Dec 2021, will not qualify for El-Certificates. For plants partly started by 31 Dec 2021, an allocation factor will be set on the basis of the proportion of the total production which was put into operation by 31 Dec 2021. Sweden has recently decided to extend the El-Certificate scheme until 31 Dec 2030 and with 2045 as the new end date for the scheme. The Norwegian government has however announced that it will not participate in such extension of the scheme, and the authorities of Sweden and Norway are currently discussing the transitional scheme.

For new technology related to renewable energy, it may be possible to obtain support through an alternative scheme managed by Enova (a state owned entity).

Tax on energy generation

Renewable energy producers in Norway will be subject to general income tax for companies of 24% of their annual tax results. In addition Hydro power generators must also pay 1) an economic rent tax (grunnrenteskatt) on 34,3% of a calculated income and 2) a natural resource tax (“naturresursskatt”) of NOK 0.013 per KWh, which is calculated based on 1/7 of the power plants total production in the 7 last years. Onshore wind is not subject to these additional taxes.
To further support wind farm development, the government introduced new temporary depreciation rules on June 19th 2015, allowing linear depreciation of investments in the wind park during 5 years. There are also special rules related to amongst others interests deductions, realization etc., but these will not be commented on in the following.

Consents, licenses and other relevant regulations for energy generation

Energy Act

To generate electricity in Norway you must obtain a concession under the Energy Act (“Energy Concession”). The energy authorities are the Norwegian Water Resources and Energy Directorate (“NVE”), and the paramount Ministry for Petroleum & Energy (“OED”). The energy authorities have the ability to decide that a decision to grant an Energy Concession shall have the effect as a national planning permission according to the Plan and Building Act (“Pbl”) §6-4. If such decision is not expressly taken, then a separate planning permission must be obtained in accordance with Pbl. To sell its electricity the renewable generator also needs to obtain a trading concession under the Energy Act.

Other consents or licenses required for hydro power plants.

Generation from hydro power in Norway may require further license(s) under the water resource legislation.

The Industrial Concession Act (Industrikonseksjonsloven) relates primarily to acquisition and use of waterfalls as source for power generation. The Act imposes an obligation on parties (other than the state) to obtain a concession to own such assets. New concessions or concessions for transfer of existing assets will only be granted to government-owned bodies (such as state-owned enterprises, or companies owned by municipalities and/or county municipalities). Private parties can only acquire up to one third of the shares in companies holding such generation assets. The beneficial ownership and control must rest with the government owned body(-ies). Shareholder and/or leasing arrangements etc. must not undermine this.

A license is also required under the Watercourse Regulation Act (Vassdragreguleringsloven) in circumstances where power generation requires the use of water from a regulated reservoir or where water is transferred to or from the watercourse. The Act is set to protect both public and private interests pertaining to the watercourse and the license will usually only be granted if any damage to these interests are deemed to be outweighed by the advantages entailed by the regulation.

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1 http://www.giek.no/en/om_giek/nyheter/did-you-know-that-the-norwegian-government-can-guarantee-for-long-term-power-purchase-agreements-in-norway-
2 https://www.enova.no/about-enova/about-enova/259/0/
3 This chapter contain figures applicable for 2017
4 This tax is not applicable for plants with a capacity below 10 000 kVA.
5 This tax is not applicable for plants with a capacity below 10 000 kVA.
For other (often smaller) hydro power plants where a license is not required under the Watercourse Regulation Act, the Water Resources Act ("Vannressursloven") requires that a license is obtained by anyone who performs watercourse measures that may cause damage or disadvantage to public or private interests in watercourses or groundwater.

Other regulations
In addition to the consents or licenses required above, there are a number of laws and regulations setting out compliance requirements, in particular within the environmental area, many of which are introduced by EU-regulations.

Access to grid
The Norwegian grid is divided into three main categories; transmission network ((400-132kV) with Statnett as the Transmission System Operator ("TSO")), the regional distribution network ((132-33kV) and the local distribution network. There are 146 grid utilities that own and operate regional and/or local distribution networks (and minor parts of the transmission network). The Energy Act has provisions which require the separation of transmission/distribution business from the generation/trading business. These provisions have been introduced as a result of EU’s unbundling rules. The statutory framework for grid (access, charges, rights and use etc.) is managed by the regulator NVE, as well as OED.

Grid utilities in Norway are obliged to offer generators (and consumers) market access to the grid on terms that are unbiased and non-discriminatory. The obligation to offer network connection is conditional upon sufficient capacity in the existing network. It is not allowed to connect a new customer to the network if the connection adversely affects the operational security of the network.

Allocation of available capacity is done on a ‘first come, first served’ basis. Should there be insufficient capacity in the existing network, then the grid utility will be obliged (according to the transmission license) to plan, apply for consents and licenses and invest without undue delay. Before construction the grid utility must secure all necessary planning permissions, consents, land rights etc. to execute the necessary work.

The cost allocation between the generator and the grid owner depends on the classification of the grid. The grid utility may require a connection charge to cover the capital contribution ("Anleggsbidrag") related to the new connection and/or the costs related to reinforcement of the existing network (but not for investments in the meshed network (production related grid)). Costs not covered by the connecting customer but by the grid owner will increase the grid owner’s allowed income and, hence, be ‘sosialised’ through an increase in the consumer tariff.

The developer will in most cases be obliged to pay the development costs when the grid connection is ordered. Currently we have no system for reserving capacity in Norway. But because of the transparency many developers take the view that it has sufficient predictability to postpone entering into the grid connection agreement until an investment decision is taken for the generation plant.
Generators are obliged to pay a tariff consisting of two elements, one which varies with the generator’s actual production delivered into the network (the "Energy Component") and a fixed element based on the ‘settled production volume’ which is calculated based on the power plant’s median annual input for the last 10 years.  Generation projects will in many cases be vulnerable if the construction of a connection, new capacity and/or reinforcement of existing grid is delayed or exposed to a cost overrun.

Landowner agreements
In Norway the owner of the land also holds the rights to utilize the watercourse for the purpose of producing hydropower, unless such watercourse right have been transferred to others.

In addition to securing necessary rights to utilize the watercourse, generators must enter into agreements on acquisition, land lease and/or easements over land with all necessary landowners.

If obtaining signatures on every agreement in due time is not deemed possible, all necessary rights and obligations can be secured through expropriation and preaccession permits from NVE in accordance with regulations in the Norwegian Act relating to expropriation (no. oreignings-lova), as well as through Judicial Assessment Cases.

In cases where it is doubtful that agreements can be entered into with all necessary landowners, expropriation rights should be applied for simultaneously with the application for the Energy Concession.

It is recommended that landowner agreements are registered as an encumbrance against the relevant properties in the official land register (no. grunnboken), which will protect the generator against potential conflicting rights registered on the property at a later date. In order to register such rights in the official land register, the generator will need an approval from the affected landowner and in some cases also from local municipalities according to the act relating to license in connection with acquisition of land properties (no. konsesjonsloven).

Other necessary agreements
To construct a renewable generation plant other rights may be required, for example crossing agreements, lift and shift agreements or agreements with third parties holding other easements over the required property.

Where the neighbour is exposed to unreasonable or unnecessary damage or nuisance (ref the Neighbour Act (Grannelova)) or noise above a certain level set out in the Energy Concession, the neighbour may be entitled to compensation.

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7 Of more than 4000 natural horse powers (NHP).
8 For power plants with installed capacity below 1 MW, settled volume must be maximum 30% of installed load capacity multiplied by 5,000 hours.
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