

Unofficial translation from Norwegian

Regulations relating to the use of facilities by others

Laid down by the Ministry of Petroleum and Energy on 20 December 2005 pursuant to Section 10-18, first paragraph, and Section 4-8 of the Act of 29 November 1996 No. 72 relating to petroleum activities and Section 86 of the Regulations of 27 June 1997 No. 653 to the Act relating to petroleum activities.

Section 1 Scope

These Regulations apply to the conclusion of agreements for the use of facilities by others for the production, transportation or exploitation of petroleum pursuant to Sections 1-4 and 4-8 of the Petroleum Act, including the facilities stated in Section 12 in these Regulations.

The Regulations do not apply to the extent that the rules contained in the Regulations of 20 December 2002 No. 1724 relating to the determination of tariffs etc. for certain facilities provide otherwise.

Section 2 Objective

The objective of these Regulations is to achieve efficient use of facilities in order to ensure good incentives for licensees to conduct exploration and production activities with a view to promoting efficient resource management.

Section 3 Definitions

- a) In these Regulations *the Ministry* means the Royal Ministry of Petroleum and Energy.
- b) In these Regulations *the Petroleum Act* means the Act of 29 November 1996 No. 72 relating to petroleum activities.
- c) In these Regulations *owner* means a party (a group of licensees or an individual licensee) that owns a facility used by others or that others wish to use.
- d) In these Regulations *user* means a party (a group of licensees or an individual licensee) that uses or wishes to use a facility owned by others.
- e) In these Regulations *use* means any service that may be encompassed by an agreement on the use of facilities by others pursuant to Section 4-8 of the Petroleum Act. Such use may inter alia encompass the drilling of wells, connection, controlling sub-sea production systems, injection of water and , gas lift services, mixing/removal of CO₂/H₂S, processing well streams, transportation by pipeline from a connecting field to a host facility, oil storage and offshore loading, transportation of produced petroleum by pipeline, access to power, inspection and maintenance, as well as any option for production of additional resources from the connecting field.

Section 4 General principles

A user with a need to use the facility of another party shall on objective and non-discriminatory conditions have a right to such use in accordance with the rules provided for in Section 4-8 of the Petroleum Act and in these Regulations.

Agreements on the use of the facilities of other parties shall be based on the principle that profits from production shall primarily be earned by the producing field. The owner's incentives to maintain the capacity of the facilities and to make sensible investments in additional capacity shall be ensured.

Negotiations between owner and user concerning the use of a facility shall be organised and conducted in a spirit of integrity and good faith, in accordance with good corporate governance and in such way that the negotiations do not provide one party with an unreasonable advantage at the expense of the other party. A licensee shall normally participate in negotiations on the side on which the greatest economic interests of the party in question lie.

While negotiations are ongoing, the parties shall exchange updated information on the user's needs and capacities available, with a view to determining at the earliest stage possible the conditions that are to govern the required use.

Section 5 Request for overview of capacity

Upon receiving a request for an overview of capacity concerning the use of a facility from licensees and undertakings pre-qualified as licensees on the Norwegian shelf, including the possibility for extending the capacity of the facility, the owner shall provide such information within 15 working days.

Section 6 Request concerning use

A request concerning the use of a facility shall describe the services that are required, important milestones and relevant technical information, for example about reservoir properties and anticipated production from the deposit in question, and the services to which the request applies.

The owner shall respond to a request concerning the use of a facility within reasonable time of receiving the request. The reply from the owner shall reflect the content of the request and it shall as a minimum provide information on the services that can be provided, reservations, priority, liabilities and compensation, as well as other relevant information.

The owner's reply to a request concerning the use of a facility may emphasise that such use shall not unreasonably be to the detriment to the owner's own use of the facility, or that of any other user granted the right of use of the facility. Moreover, the owner may emphasise that the petroleum that is to be produced, transported or exploited via the facility shall have specifications that are reasonably consistent with technical requirements and the need to operate the facility efficiently.

If there is no capacity available on the facility, the owner shall as far as possible make arrangements whereby additional capacity can be made available to the user. In such event, the owner's reply shall explain the estimated costs involved in establishing such additional capacity, including whether studies will be required in order to determine how capacity might be extended, and what risks this would be expected to entail for the owner. The costs of such studies shall be covered by user, unless the parties otherwise agree.

Section 7 Progress plan

If the owner and user conclude that grounds exist for initiating negotiations concerning use of the facility, the parties shall as soon as possible agree upon a progress plan with specific milestones and a time limit for completing the negotiations. When the progress plan has been agreed, the parties to the negotiations shall notify the Ministry that negotiations concerning use of the facility have been initiated, and of the progress plan.

The negotiation period shall not exceed four months from the date on which the Ministry has been notified about the negotiations having been initiated, unless the parties otherwise agree or the Ministry specifies otherwise, cf. Section 13.

The progress plan may be amended if both parties so agree. The Ministry shall be notified of such amendment.

Section 8 Access to agreements during negotiations

When two parties have agreed upon a progress plan, cf. Section 7, first paragraph, the owner shall grant the user access to agreements concerning use of the facility by others, entered into by the owner after the entry into force of these Regulations.

Section 9 The terms of the agreement

The parties shall seek to agree on tariffs and other terms governing use of the facility that are acceptable to both parties and in accordance with the objective of the Regulations, cf. Section 2 and the general principles provided for in Section 4.

If requested by the user, the owner shall offer tariffs and other terms for each of the services offered separately, unless there are genuine economic gains associated with offering tariffs and other terms for the applicable services jointly and both parties so agree. In the case of pipelines for transportation of oil- and/or gas, a separate offer shall be formulated.

Tariffs and other terms shall be set on a reasonable level. The following principles shall as a general rule be applied in formulating tariffs and other terms:

- Tariffs and other terms shall be calculated on the basis of the services offered, independent of the profitability of the related field.

- The user shall cover operating costs incurred by the owner as a result of the use of the facility by others.
- The user shall cover any new investments caused by the use of the facility.
- Tariffs and other terms may include payments for any investments in additional capacity which previously have been made with a view to future third party use, including a reasonable share of the risk that the additional investment will not be fully utilized.
- Tariffs and other terms shall not comprise repayment of investments that have already resulted in a reasonable profit for the owner.
- The owner shall be compensated for any loss of earnings, including loss and/or postponement of production as a consequence of use of the facility by others. Compensation for loss and/or postponement of production shall be determined on the basis of the profit that could have been achieved on the production that is lost and/or postponed. The owner shall as far as possible facilitate the connection to the facility so as to minimise any loss or postponement of production as a consequence of the connection.
- The owner may estimate a reasonable profit, considering the risk undertaken by the owner as a consequence of use of the facility by others.

The owner shall be able to provide an account of the principles applied in formulating the tariffs and other terms.

Section 10 Standardised contract clauses

The contents and wording of agreements concerning the use of facilities by others are to be decided by the parties, unless otherwise provided for in Section 4-8 of the Petroleum Act or these Regulations.

The Ministry may decide that standardised contract clauses shall be drawn up for both the general and the specific parts of an agreement concerning the use of the facilities by others, to be used by the parties during negotiations, and that such standardised contract clauses shall be submitted to the Ministry for approval.

Section 11 Voting rules

Decisions by the individual joint venture about requests, replies, mandates to negotiate and the conclusion of agreements encompassed by these Regulations are adopted by the management committee in accordance with the ordinary voting rules applying to each individual joint venture.

The final agreement concerning the use of a facility shall be entered into by the operator on behalf of the members of the joint ventures in question in accordance with the resolution of the management committee. If a licensee disagrees with the outcome of the negotiations, then the licensee in question may bring the matter before the Ministry.

Section 12 Leased facilities

The right of a user pursuant to these Regulations also applies to the use of facilities that a licensee or a group of licensees has leased for use in petroleum activities pursuant to the Petroleum Act.

Unless the holder of the title to the facility otherwise agrees, the user's right to use the facility is limited by

- the term of the lease agreed between the holder of the title and the lessee;
- the right of the lessee to make modifications to the facility;
- any specific restrictions on use.

The user's right pursuant to these Regulations cannot be further restricted by agreement between the holder of the title of the facility and the lessee.

Section 13 Disagreement

Any disagreement arising under these Regulations may be brought before the Ministry for decision.

Before a decision is made, the parties shall each be given the opportunity to present their views. The Ministry may require the parties to submit the information necessary for a decision to be made.

Section 14 Reporting of approved agreements

Within 30 days of the Ministry having approved an agreement concerning the use of a facility by others pursuant to Section 4-8 of the Petroleum Act, the parties shall report elements from the negotiating process and the main terms of the agreement to the Norwegian Petroleum Directorate for publication. Forms drawn up by the Ministry shall be used for such reporting.

Section 15 Entry into force

These Regulations shall enter into force on 1 January 2006.