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Høringsuttalelse til Europakommisjonens forslag til direktiv for å fremme bruk av fornybare energikilder av den 23. januar 2008

Vi viser til departementets brev av 1. februar og vil med dette komme med synspunkter på Kommissjonens forslag og forholdet til norske rammebetingelser for fornybar energi. Vi viser også til våre tidligere kommentarer til fornybarhetsdirektivet, gitt i brev av 27. mars og 5. desember 2007, samt vårt notat om "A European Renewables Certificate Scheme" av september 2007.

Det første fornybarhetsdirektivet (RES directive 77/2001) ble vurdert som EØS-relevant og ble følgelig implementert i Norge i 2003. EU Kommissjonen vurderer også det nye direktivforslaget å være EØS-relevant. Uttalelser i media fra politisk ledelse i departementet tyder likeledes på at regjeringen vurderer direktivet som EØS-relevant. Statkraft legger derfor til grunn at direktivet vil bli implementert i Norge som en del av EØS-avtalen. Det nåværende fornybardirektivet ble implementert i Norge først flere år etter at dette var implementert i de fleste medlemsland. Dette førte til en periode med usikkerhet både med hensyn til direktivets mål om fornybar energi i Norge, og til at norske aktører ikke kunne handle med opprinnelsessertifikater med EUs medlemsland før Norges tilslutning.

Norge er en del av det indre europeiske energimarkedet. Norske energiselskaper er aktive i mange europeiske land, både gjennom investeringer i kraftproduksjonsaktiva og gjennom salg av og handel med energi. Norske energiselskaper har kjernekompetanse innenfor flere områder som kan gi dem komparative fortrinn også i det europeiske markedet. Videre har Norge store fornybare energiresurser.

Som en del av forberedelsene til implementeringen av direktivet i EØS, vil et særlig viktig punkt være å fastsette bindende mål om en andel fornybar energiforbruk i 2020 for hvert EØS-land. Statkraft vurderer klarhet med hensyn til norske bindende mål i 2020 som svært viktig for å skape den nødvendige forutsigbarhet og langsiktighet rundt støttesystemet for fornybar energi i Norge. Dette vil også stimulere aktørene til å planlegge og å utvikle prosjekter i Norge. Likeledes er det viktig å ikke være utelukket fra foretningsmuligheter innenfor det indre energimarked på grunn av forsinket eller manglende norsk tilpassing til direktivet.

Den norske og den svenske regjeringen har offentliggjort at de har gjenopptatt en dialog med mål om å etablere et norsk-svensk sertifikatmarked for fornybar energi. Det er samtidig klart at innholdet i det andre fornybarhetsdirektivet vil være førende for utviklingen av et felles marked for grønne sertifikater. Slik vi forstår direktivet, kan handel med sertifikater mellom to land ikke begynne før direktivet er implementert. Vi vil derfor be om at det iverksettes tiltak for å sikre at de nødvendige prosessene i EU og andre EØS-land igangsettes så tidlig som mulig, med sikte på implementering av direktivet i Norge innenfor de samme frister som gjelder for EU-landene.

Det svenske sertifikatsystem bygger på at produsenter av fornybar energi får tildelt sertifikater. Sluttkundene er pålagt å ha en gitt andel fornybar energi i sin forbruksmiks, noe som gir sertifikatene en markedsverdi. Siden innføringen av sertifikatsystemet i Sverige har investeringer i ny fornybar energi økt betydelig, og ny produksjonskapasitet har kommet i markedet. Statkraft vurderer hovedelementene i det svenske systemet som formålstjenelige og effektive, og mener at dette gir et godt grunnlag for en prosess mot et felles sertifikatmarked. I forhold til å redusere kostnadene for myndighetene, minimere miljøbelastningen ved ny kraftproduksjon og styrke gevinstene ved et felles marked gjennom økt størrelse, bør det vurderes å utvide et fremtidig svensk-norsk sertifikatmarked til flere land. Dette kan både være andre nordiske land og land uten fysisk tilknytning til det nordiske markedet som ønsker å bidra i et felles marked for grønne sertifikater.

Som vedlegg til dette brev følger Statkrafts kommentarer til direktivforslaget på engelsk.

Med vennlig hilsen
For Statkraft AS



Oluf Ulseth
Direktør

Statkraft comments to RES Directive proposal

Ambitious targets require a harmonised approach

The binding target of a 20 % share of renewables in the final EU energy consumption is very ambitious. It requires annual growth rates in renewable production capacity many times above the experience over the last ten years. Even with the most efficient support schemes, it is a big challenge to achieve such growth within a relatively short period of time. In evaluating policy goals and policy measures, we will also point to the fact that the less ambitious indicative targets of the first RES Directive for 2010 will not be met. On this background, Statkraft is deeply worried that the new directive builds on a continuation and upgrading of today's approximately 30 fragmented and un-coordinated national policies. The European Commission states that there is a need for flexibility between Member States in order to reduce the overall cost of reaching the 20% target, and estimates the potential added cost of not having such flexibility of up to € 8 billion. At the same time, the Directive proposal does in our judgement not offer such flexibility. In addition to being costly to consumers and governments and putting an unnecessary burden on the environment, such fragmented policies will impede the achievement of the target itself.

In addition to well working support schemes for new capacity, also grid capacity and regulatory processes need to be developed in order to meet the agreed goals; not only within a country but also with necessary coordination between countries.

While Europe has seen a considerable growth in renewables throughout the past ten years, Statkraft believes that the very ambitious targets require new policy tools. Investors should see sufficient incentives to look for the best projects throughout the whole Community which provide a cost-efficient contribution to fulfilling the agreed goal.

Statkraft therefore favours a harmonised European Renewables Certificate Scheme. We believe the Directive should include harmonisation of support schemes as a long term objective, and contain specific powers to the European Commission to follow the development of the different support schemes and implement measures to increase integration between the different national support schemes.

Osmotic power represents attractive growth in renewables

Osmotic power represents an estimated potential of 180 TWh of new renewable power production in Europe, and it is expected that most of this potential can be realised at competitive cost levels compared to other renewable energy sources. The Directive proposal lists the types of energy from renewable sources that define renewable energy: wind, solar, geothermal, wave, tidal, hydropower, biomass, landfill gas, sewage treatment plant gas and biogases. This list does not include osmotic power. With this current definition of renewable energy (Art. 2a), there is a risk that the potential represented by osmotic power may fall outside the scope of the Directive. With the very ambitious goals of 20% in 2020, it should be paramount to include all relevant technologies in the definition. It is, therefore, important to include osmotic power in the definition of renewable power in article 2a, preferably explicitly, or, alternatively, as part of a broader definition such as ocean power (tidal, wave, and osmotic power).

Osmotic power production utilises the osmotic pressure difference between the fresh water and the sea water. Research projects on osmotic power have received support through the Sixth Framework programme, and in the call for projects in the Seventh Framework programme, salinity power (osmotic power) was also included. Technology is now being developed and tested to capture this energy to generate electricity, with the ambition of

sizeable plants in commercial operation in 2015. Statkraft is currently developing a prototype osmotic power plant in Norway, but there are also other companies in Europe working to develop this technology.

Maintain existing voluntary market of Guarantees of Origin

Guarantees of Origin (GoO) were introduced in 2001 as part of the RES directive 77/2001. They can be used for different purposes: for disclosure and for target counting. However, "it is important to distinguish guarantees of origin clearly from exchangeable green certificates", as is stated in preamble 11 of the RES Directive 77/2001.

Hitherto, GoOs have been used for disclosure by proofing that a unit of electricity was produced with renewable sources and specifying where and when the relevant unit of electricity was produced. On this basis, a voluntary market for GoOs has evolved during the past years, allowing producers and customers to differentiate their electricity mix with regard to its green attributes. GoOs have become a credible "environmental currency" for renewable electricity production. Considerable trade with renewable electricity has been developed on the basis of consumers' willingness to pay for renewables. The internationalisation of the voluntary market has been a step towards integrating renewables into the internal energy market, which the Commission strongly supported in the "roadmap" of January 2007. This voluntary market is a key platform in many companies' green electricity strategy. Trade of GoOs for purposes of fuel mix disclosure should therefore be continued without restrictions.

The current proposal aims at using GoOs also for target counting, thus diluting the difference between GoOs and exchangeable green certificates. Statkraft supports the focus on new production for target counting, given that target calculation is based on required new production for compliance with the national obligations. Under the current system for GoOs, methodology for disclosure and accounting in different countries has been developed and established. This existing methodology can be built on and applied also when guarantees of origin are used for target counting.

However, Statkraft is worried that the proposed system of GoOs for target counting will erode the existing voluntary market for GoOs for disclosure. Fully using the existing GoO system and excluding transfer of GoOs from existing installations from the system would disable the cross border trade of GoOs from plants constructed before 2010. This, in turn, would critically reduce volume and liquidity in a well functioning voluntary market and endanger the existence and credibility in this market.

Statkraft draws the attention to the Swedish market, where GoOs for disclosure are issued in parallel to green tradable certificates (for target counting). Tradable green certificates are given to producers of renewable electricity; the demand for certificates is induced through an obligation to buy a certain share of renewables. Statkraft proposes to introduce tradable specific GoOs or green certificates for target counting in the Member States, while the current system of GoOs is kept for disclosure purposes.

Validity of GoO should be at least two years

The directive proposes that GoOs shall not be submitted to a competent body for cancellation later than one year after their date of issue. Statkraft considers this term to be too short. In a market where certificates are traded, banking should be possible, allowing market participants to optimise their portfolio. Limiting the validity of GoOs to one year seems unnecessary and counterproductive to the well-functioning and development of the

cross-border market. Statkraft proposes the validity of a GoO to be extended to at least two years.

Virtual trade from third countries

The directive foresees electricity produced from renewable energy sources in third countries only to be taken into account for the purpose of measuring compliance with the requirements of the directive if the electricity is consumed in the Community. This implies that an equivalent amount of electricity has to be imported physically into the Community.

GoOs are, in principle, a financial product. Thus, the physical part of the electricity is separated from the electricity's "green" value, which can be realised in a market without the electricity being delivered there. In the current voluntary market, most countries do not require proof of a physical delivery of electricity equivalent to the GoOs. Applying such a request for renewable electricity production from third countries is in contrast with the idea of financial products. There is a considerable potential for renewable energy in several European countries which currently are not member of the EU/European Economic Area. Utilising parts of this potential based on an adequate accounting system with regard to compliance with the directive provides cost efficient alternatives to internal production. The requirement of the electricity from third countries to be consumed in the Community should therefore be deleted. If needed, the geographical scope of potentially contributing countries could be limited to specifically named countries or to countries with a physical connection to the internal European market.

Trade in Guarantees of Origin for target counting is imperative

Article 9 deals with the transfer of guarantees of origin. Mechanisms of transfer between Member States and between persons in different Member States are described.

Statkraft considers these descriptions to be unclear and incomplete, in addition to limiting the possibilities for trade:

- Guarantees of origin can be transferred by Member States who equal or exceed the indicative trajectory of compliance. Member States should be allowed to export and import GoOs independent of their own national production compliance. Parallel to the principle of free trade, self sufficiency with renewable energy according to the trajectory should not be a requirement for the possibility to export and trade with GoOs.
- Each Member State may introduce a system of prior authorisation effectively limiting or stopping trade with GoOs between persons in different Member States in case national RES targets are endangered. This severely restrains free trade with GoOs.
- Both governments and persons/companies can trade with GoOs. It is unclear how the GoOs will be priced when used by governments as a balancing mechanism.
- There are no provisions whether trade with GoOs should be adapted to existing national certificate schemes. The definition of "guarantee of origin" also covers national certificate systems (UK; Italy, Sweden). It is open whether national certificate systems must be changed to GoOs or whether the rules for GoOs also have to be applied to these national tradable certificates. If this were the case, it would erode market based well functioning certificate schemes.
- International transfer of GoOs is limited to installations that were commissioned after the date of entry into force of the proposed Directive or to production which is the result of a capacity increase after that date. However, the year of construction and date of production is specified on the GoO. This information can be used for

accountability of the GoO in the importing country without having to limit the transfer of GoOs from such installations. Therefore, Statkraft proposes to remove the limitation of transfer of GoOs from such installations.

- If producers of renewable electricity and GoOs submit one or more GoOs to a competent body, the operator shall request GoOs for all future production of renewable energy sources from the same installation. This implies that GoOs cannot be differentiated with regard to different customers for parts of the total production or parts of the life time of an installation. Instead of buying and selling free GoOs in the market, only whole projects can be transferred. Such a provision severely hampers free trade with GoOs and the creation of a liquid market for renewable energy. Moreover, it also means that a party with a quota obligation also must request all GoOs from a whole project for the lifetime of the project. However, with an uncertain amount of future GoO volumes due to variances in wind and precipitation in each project, this will not cover the volume risk for the quota obligation and will thus not work. It is in itself a worry that the "operator" shall request GoO for all future production, as this only can be provided by the producer and not other market participants. On the other hand, if trade in GoOs are limited to whole projects for the full lifetime for all market participants it will destroy all meaningful trade in any national certificate scheme, taking out liquidity and increasing the risk for market participants. In a Nordic context, we are also worried that the provision of submitting GoO to one competent body can be a severe hinder to develop a common green certificate market between two countries, as Norway and Sweden, within the framework of the Directive.. On this background, Statkraft proposes to delete article 8.2.

Grid access supporting a well functioning market

Statkraft wants to draw the attention of the consequences of asking transmission system operators to provide for priority grid access for electricity produced from renewable sources. In a liberalised market, where electricity is dispatched without declaration of origin, this raises questions: i.a. which production is crowded out when electricity from renewable sources is prioritised, who will pay, how to differentiate between physical and financial trade and payments, etc.

In a marked based international power system (like the Nordic) we do not see the necessity of such regulation. The Nordic power exchange, Nord Pool, uses market splitting (and thus market mechanisms) to ensure the right power flow between the production surpluses area and production deficits area within available transmission capacity. The renewable production capacity will typically have the lowest bids, since they have very low marginal cost, and will therefore automatically defeat production capacity from other resources since they have higher marginal cost. Renewable sources much however accept the low surplus area price when the transmission capacity to a neighbouring area with higher price is congested.