

Clearer path ahead under new grid connection rules

Legal uncertainty has played as big a role as technical and financial challenges in holding back the development of offshore wind energy in Germany. [Annika von La Chevallerie](#) takes a close look at the new rules on grid connection liability



Offshore wind energy plays an important role in Germany. It is envisaged that the share of offshore wind in Germany's electricity generation should increase to 15% by 2025. Legislation has not always helped support this transition, however.

According to German law, the electricity grid operator for the zone where an offshore wind farm is situated is responsible for connecting the project to the onshore grid. In practice, this obligation lies with transmission system operators Tennet for wind farms in the North Sea and with 50 Hertz Transmission for wind farms in the Baltic Sea.

Under previous legislation, which applied until the end of last year, a grid connection had to be established at the time when a wind farm was ready for commissioning. As a rule, the wind-farm project company would rely upon an unconditional grid-connection confirmation by the grid operator.

Binding ties New law imposes penalties on grid operators for delays in connecting offshore wind farms

However, norms pertaining to the grid operator's liability in case of connection delays were missing. This became an issue when Tennet published a letter to the German government informing it of substantial delays in the connection of several wind farms. Investments in offshore wind had to be postponed, as wind-farm operators would have suffered high losses as a result of delayed grid connections.

In an attempt to remove these obstacles and accelerate the expansion of offshore wind, the German legislator has now adopted a detailed liability regime comprising a new piece of legislation, the Third Act for the Modification of the Energy Law, which came into force on 1 January. The act has amended other laws, especially the Energy Industry Act (*Energiewirtschaftsgesetz*).

Grid planning

The law now obliges power transmission operators to prepare an annual offshore grid development plan



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providing a reliable and efficient timetable for the implementation of grid connections. The plan replaces unconditional grid connection confirmations for offshore wind farms that had not received confirmation by 29 August 2012.

Completion date, location and size of future grid connections have to be specified in the plan, which is to be submitted to the German federal energy regulator Bundesnetzagentur for review and approval. Once an envisaged completion date for the grid connection has been published, grid operator and developer have to agree on a realisation plan and inform each other in case of any delays or deviations from the plan.

The plan is binding for both the grid operator and the developer. Developers are entitled to rely on the plan and the completion dates it specifies from 30 months prior to the scheduled completion of the grid connection. Before then, the transmission grid operator may adjust the envisaged completion date, subject to approval by the Bundesnetzagentur. If construction of the wind farm is delayed, the capacity allocated to that plant may be transferred to other projects under certain conditions.

The act provides a settlement mechanism among all

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grid operators in respect of the costs incurred in drafting the offshore grid development plan and constructing and operating the grid connection. These costs may be passed on to the end user as part of the network fees.

New liability regime

Under the new regulations, the wind-farm operator is entitled to damages if completion of the grid connection is delayed or services to an installed grid connection are interrupted. Compensation has to be paid as of the 11th consecutive day of delay from the completion date fixed in the offshore grid development plan. Equally, the grid operator is liable in case of 18 days of interruption per calendar year. The wind farm operator is entitled to damages as of the 19th day of interruption (11th day in case of maintenance interruptions).

Provided the offshore wind farm is ready for operation, a claim can be made whether or not the grid operator is responsible for the delay or interruption. If the grid operator has acted by wilful misconduct, its liability starts on day one.

The damages claim amounts to 90% (100% in cases of wilful misconduct) of the feed-in tariff to be paid by the grid operator according to statutory law. It is calculated daily, based on the average production of a comparable wind turbine.

The other grid operators — subject to certain deductibles and caps — will reimburse damage payments by a grid operator to a wind-farm operator. Grid operators can pass on some of these costs to end users as part of the network fees. This contribution is capped at €0.0025/kWh for end users offtaking up to 1GWh/year and at €0.0005/kWh for end users offtaking more than that, subject to special industry regulations. Any costs that could not be passed on to end users within one year because of the caps can be added to the network fee the following year.

The new regulations finally provide clarity regarding the liability of grid operators and increase planning security, not least for investors. It has attracted criticism, however, for passing on to end users at least some of the financial risk for grid connection delays. ■■W

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MORE CHANGE TO COME REFORM OF SUPPORT SYSTEM FOR RENEWABLES UNDER DISCUSSION

Renewable energy in Germany is promoted through feed-in tariffs, regulated under the Renewable Energies Act. Depending on the energy source, producers of renewable energy are granted a fixed tariff for each kilowatt hour of electricity generated over a period of 20 years. Electricity consumers pay for the tariffs.

In 2012, measures were introduced to promote demand-oriented production of renewable

energy. Nevertheless, calls for a revision of the feed-in tariff system are growing ever louder. On 14 February the German environment and economic affairs ministers presented a joint proposal for cost containment. This envisages a cap on the costs consumers have to bear in relation to the Renewable Energies Act.

The proposal provides for a reduction of feed-in tariffs for new

and, to a lesser extent, existing renewable-energy plants. Also, operators of new plants will have to directly market the electricity they generate (see page 5).

The measures should come into force on 1 August, just weeks before parliamentary elections on 22 September. The federal government and the German states (Länder) are currently negotiating a compromise on the proposal, which should be

finalised by 21 March.

In the long term, the German feed-in tariff system is certain to be fundamentally revised, as a large number of political and economic stakeholders agree that this needs to happen.

One of the suggestions is to move towards a quota system based on green certificates trading, along the lines of the system already operating in Sweden and Norway.