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EFTA SURVEILLANCE
AUTHORITY

Fosen Naturvernforening
Att. Magnar Østerås
Ytre Ringvei 32
7100 Rissa, Norway

Sent by email only to [REDACTED] and [REDACTED]

Subject: Wind power projects in Trøndelag (complaint)
- *Preliminary assessment of complaint*

Reference is made to your letters to the EFTA Surveillance Authority (“the Authority”) dated 7 May 2016 (Document No 803687) and 22 May 2017 (Document No 857821) concerning alleged aid to the Fosen Wind Project.

In the letters you refer to the following:

- construction of the overhead power lines by Statnett; and
- certain other infrastructure and tax related measures.

The Authority addressed these other measures in its letters dated 16 December 2016 (Document No 831433) and 25 September 2017 (Document No 872759).

The Authority’s current letter concerns your allegations regarding the construction of the overhead power lines by Statnett.

In its letter dated 24 April 2017 (Document No 852303), the Authority took the preliminary view that Statnett’s grid construction did not provide a selective advantage to the Fosen Wind Project, and that the measure therefore did not constitute state aid within the meaning of Article 61(1) of the EEA Agreement.

Having studied your letter dated 22 May 2017, the Authority maintains its earlier preliminary view that the measure does not involve state aid within the meaning of Article 61(1) of the EEA Agreement.

In your letter dated 22 May 2017, you claim that the construction of the power lines would amount to discrimination as regards other, potentially more cost-effective, forms of energy. At the same time, you claim that the power lines in question might not be built at all, with the decision on the construction being taken only around 2028.

These arguments are not such as to change the Authority’s earlier preliminary assessment of the measure.

The Authority explained in its letter dated 24 April 2017 that all of the cumulative conditions under Article 61(1) of the EEA Agreement must be met for a measure to qualify as state aid. As the Authority reasoned in its letter dated 24 April 2017, it appears that Statnett has followed its normal national level grid planning and construction practices, and that the grid construction is of general character, not serving or tailored to the needs of a particular user. Thus, the Authority was of the preliminary view that the measure was not selective, and that therefore at least one of the cumulative conditions of Article 61(1) of the EEA Agreement would not be met.

Your letter dated 22 May 2017 does not contain any arguments that would allow the Authority to change its earlier preliminary view. In particular, the arguments invoked in the letter do not indicate that the measure would not be of general character, but would rather serve or be tailored to the needs of a particular user. The existence of other, potentially more cost-efficient forms of energy does not by itself mean that the construction of the power lines in question would provide a selective advantage to the Fosen Wind Project.

Furthermore, it appears from your arguments that the measure has not yet been put into effect, since the decision to build the power lines would only be adopted around 2028. As the Authority explained in its letter dated 25 September 2017, if a measure has not yet been put into effect, the Authority does not have the competence to examine the measure under the applicable rules on unlawful state aid.¹

Therefore, with reference to paragraph 48(b) of the Authority's Guidelines on Best Practice for the conduct of state control procedures² and based on the information available, the Authority maintains its preliminary view that Statnett's grid construction does not provide a selective advantage to the Fosen Wind Project, and that therefore the measure does not constitute state aid within the meaning of Article 61(1) of the EEA Agreement.

If you have any additional information you would like to submit that might change this preliminary view, please do so **by 26 January 2018**. Otherwise the case will be closed without further notice.

Yours sincerely,

Gjermund Mathisen
Director
Competition and State aid

Placeholder for electronic signature. Please do not delete.

¹ Articles 1 f), 10(1) and 20(2) of Part II of Protocol 3 to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice.

² [OJ L 82, 22.3.2012, p. 7](#).