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EFTA SURVEILLANCE
AUTHORITY

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

By email only, to:

██████████ and ██████████

Subject: Wind power projects in Trøndelag (complaint)

- *Preliminary assessment under paragraph 48(b) of the Authority's Guidelines on Best Practice for the conduct of state aid control procedures*

1. General

Reference is made to your letter dated 7 May 2016 concerning alleged aid to the Wind Power Projects in Trøndelag.

In your letter you refer to the following:

1. construction of the overhead power lines by Statnett;
2. the possibility that Norway might end the practice of property taxation of wind power and the special tax depreciation rules for wind power.

On 16 December 2016, the Authority sent you a letter informing you that there were insufficient grounds for taking a view on the case as regards the property taxation rules. Since you did not provide further relevant information to the Authority by 20 January 2017, the case was closed as regards the property taxation rules.¹

In the letter of 16 December 2016, the Authority also informed you that it would continue to assess your correspondence with regard to the allegations as regards the construction of the overhead power lines by Statnett.

Since receiving your complaint, the Authority has gathered information from the Norwegian authorities and conducted a preliminary examination as regards construction of the overhead power lines by Statnett.

¹ In the letter of 16 December 2016 the Authority also informed you that it had dealt with the special tax depreciation rules for wind power in its Decision No 150/16/COL of 06 July 2016 on amendment to the Norwegian Tax Act concerning changes in the depreciation rules for wind power plants (OJ C 434 24.11.2016 p. 4).

Following a preliminary examination of the submission and considering the specific characteristics of this case, the Authority is of the preliminary view that that measure does not involve state aid within the meaning of Article 61(1) of the EEA Agreement.

2. Grid construction by Statnett SF

Under Article 61(1) of the EEA Agreement a measure constitutes state aid if the following conditions are cumulatively fulfilled: (i) the measure is granted by the state or through state resources; (ii) confers a selective economic advantage to the beneficiary; (iii) is liable to affect trade between Contracting Parties and to distort competition.²

From your state aid complaint (section 4) and the attached letter to ESA dated 05.04.2016 it appears that in your view the Fosen Wind Project receives state aid from Statnett in the form of Statnett's construction of a new 420 kV power line from Namsos to Trollheim.

For the reasons given below, the Authority is of the preliminary view that the measure does not constitute a selective economic advantage.

According to the Norwegian authorities the licences for Statnett's grid connection in the Trondheimfjord area were awarded by the Norwegian Water Resources and Energy Directorate (NVE) in 2010 and 2012. After receiving several complaints, the Ministry of Petroleum and Energy reconfirmed the licenses' terms in 2013.³

The Norwegian authorities have explained that Statnett's 420 kV power lines from Namsos via Fosen to Trollheim (Surna) are planned and constructed as one coherent transmission grid, using a step-wise approach.⁴ According to the Norwegian authorities, Statnett's grid development in steps is a normal grid planning and construction process.⁵ The purpose of developing the power lines in question is to strengthen the north-south capacity in the transmission system.⁶ The development of the grid was planned in three steps: the northern part between Namsos and Åfjord at Fosen, the southern part between Snillfjord and Trollheim (Surna) and the connection of the two parts through a submarine power cable between Åfjord and Snillfjord.⁷ The Norwegian government considers that building a new transmission grid from Namsos via Fosen to Trollheim (Surna) would be economically the most viable grid development option.⁸

² See, for instance, the Authority's decision No 064/17/COL of 29.03.2017 on alleged aid involved in an exemption from air passenger tax for departures from Norwegian airports, not yet published, paragraph 59. Available on the Authority's website: <http://www.eftasurv.int/state-aid/state-aid-register/norway/norway-2017-state-aid-register>.

³ Decision by the Ministry of Petroleum and Energy of 26.08.2013 concerning Statnett SF – 420 kV kraftledning Namsos-Roan-Storheia-Snillfjord-Trollheim – klagesak p. 1. Available in Norwegian at: <http://statnett.no/PageFiles/1328/Dokumenter/~1-%20Vedtak%20Olje-%20og%20energidepartementet/Vedtak%20fra%20OED%20for%20420%20kV%20kraftledning%20Namso-s-Roan-Storheia-Snillfjord-Trollheim.pdf>

⁴ Statnett's Grid Development plan p. 86-87. Available in Norwegian at: <http://www.statnett.no/Global/Dokumenter/Prosjekter/NUP2015/Nettutviklingsplan%202015%20leseversjon.pdf>

⁵ Statnett's Grid Development plan, p. 9 and 31 and Meld.St.25 (2015-2016) Kraft til endring Energipolitikken mot 2030 p. 83.

⁶ Statnett's Grid Development plan, p. 80-87.

⁷ Decision by the Ministry of Petroleum and Energy of 26.08.2013 concerning Statnett SF, p. 41-42.

⁸ Decision by the Ministry of Petroleum and Energy of 26.08.2013 concerning Statnett SF, p. 6 and 38.

The Norwegian authorities have further confirmed that the 420 kV grid in question is a transmission rather than a production related power line.⁹ In particular, the Norwegian authorities refer to the main function of the power line (transmission), the voltage level, the length of the planned power line and the north-south capacity.¹⁰ The power line could have been dimensioned at a lower cost if the purpose were only to connect the wind power plants.¹¹

Based on the above, it appears that Statnett has followed its normal national level grid planning and construction practices, with the aim of providing the most efficient north-south capacity development in the transmissions system. The Authority consequently considers that the grid construction is of general character, not serving or tailored to the needs of a particular user.¹² Therefore, the Authority is of the preliminary view that the measure does not constitute a selective economic advantage.

3. Conclusion

On the basis of the above, and with reference to paragraph 48(b) of the Authority's Guidelines on Best Practice for the conduct of state control procedures,¹³ and based on the information available, it is the Authority's preliminary view that Statnett's grid construction does not provide a selective advantage to the Fosen Wind Project and 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 May 2017**. Otherwise the case will be closed without further notice as regards your allegations concerning grid construction by Statnett SF.

Please note that the present letter concerns only your allegations concerning grid construction by Statnett SF. It does not affect any other ongoing cases or dealings you have with the Authority.

Yours faithfully,

Gjermund Mathisen
Director
Competition and State aid

⁹ However, according to the Norwegian authorities, the 132 kV power lines connecting the Fosen Wind Project to Statnett's national grid are not owned nor operated by Statnett.

¹⁰ Decision by the Ministry of Petroleum and Energy of 26.08.2013 concerning Statnett SF, p. 42.

¹¹ Decision by the Ministry of Petroleum and Energy of 26.08.2013 concerning Statnett SF, p. 42

¹² That is also the approach taken by the European Commission as regards infrastructure investments. See, for instance, *State aid SA.32125 – Belgium – Financing of road infrastructure in the vicinity of a real estate project – Uplace* – C(2016) 9678 final, *para.* 38 - 39.

¹³ Available at <http://www.eftasurv.int/media/state-aid-guidelines/Part-II---Guidelines-on-Best-Practice-for-the-conduct-of-state-aid-control-procedures-DOC.pdf>