



# ESTABLISHMENT TERMS AND CONDITIONS FOR GENERATION FACILITIES

## On the Establishment of Grid Connection of generation facilities to the Transmission System

*Please note: This translation of the original Danish text is for informational purposes only and is not a substitute for the official Danish text. The English text is not legally binding and offers no interpretation on the Danish text. In case of inconsistency, the Danish version applies.*

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ARTICLE	CHANGE	REV	DATE
All sections	First edition	0	12-10-2019
1.2; 3,4; 9,2; 12,2; 12,3; 14,1; 14,4; 21,2 and 21.5	"Executive order no. 1128 of 2018" changed to "Executive order no. 743 of 30 May 2020", authority approvals and a lapse clause added.	1	09-02-2021
All sections	General review and update.	2	29-09-2021

## 1. Purpose

- 1.1. The Grid Connection Agreement comprises the Agreement, these Establishment Terms and Conditions and the Grid Connection Terms and Conditions and forms the basis and terms and conditions for the Establishment of Grid Connection of the Generation Facility as well as the Generation Facility's subsequent connection to and use of Energinet's Transmission System.
- 1.2. The objective of these Establishment Terms and Conditions is to lay down the terms, conditions and principles that apply to the Establishment of Grid Connection of the Generation Facility to the Transmission System, including Energinet's construction work.
- 1.3. These Establishment Terms and Conditions apply in addition to the Grid Connection Terms and Conditions and therefore use, among other things, the definitions stated in these.

## 2. Project execution

- 2.1. Prior to Grid Connection Establishment, the Producer and Energinet have completed a Maturation Project governed by the maturation agreement.
- 2.2. The objective of the Maturation Project was to define Grid Connection Establishment, including the construction project, and to demonstrate a satisfactory business case for both the Producer and Energinet.
- 2.3. At Energinet, the maturation phase ends when Energinet approves the business case for the construction project, after which the project begins work on Grid Connection Establishment for the Generation Facility, subject to the Producer's consent and the Parties' signing of the Grid Connection Agreement.

- 2.4. Grid Connection Establishment is thus initiated by the entering into the Grid Connection Agreement and by providing sufficient and timely security, cf. Article 15. During the establishment phase (during Grid Connection Establishment), the contractual terms are primarily governed by the Agreement, Establishment Terms and Conditions and Grid Connection Terms and Conditions. Following completion of the Grid Connection Establishment, the contractual terms are primarily governed by the Agreement and the Grid Connection Terms and Conditions.
- 2.5. Grid Connection Establishment is completed when Energinet has issued an FON and performed all activities required for the Producer to be able to connect and operate the Generation Facility via Energinet's Transmission System.

## 3. The Parties' assumptions

- 3.1. During the maturation phase prior to the signing of the Grid Connection Agreement, the Parties have thoroughly discussed the Producer's request and the specific requirements for the Grid Connection. The Parties have compared the Producer's specific Grid Connection requirements with Energinet's requirements and responsibilities as a transmission company and transmission system operator (TSO) in Denmark.
- 3.2. The signing of the Grid Connection Agreement is based on the results of the preceding Maturation Project, in which the Producer's requests and specific requirements for connection to the Transmission System were analysed for the specific location.
- 3.3. For the Maturation Project, Energinet has prepared an overall calculation and assessment of the options to col-

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lect the Generation Facility's electricity generation, including assessments of alternative options for meeting the Producer's requests and requirements for connection. Energinet has calculated and assessed the type of grid connection that is the most suitable while also being the optimum technical and socio-economic solution. This includes both establishment of the facility to collect the Generation Facility's electricity generation and establishment of any expansions and reinforcements necessary in the Electricity Supply System.

- 3.4. Thus, grid connection selection is based on a number of prerequisites and assumptions about the Generation Facility's electricity generation as specified and assessed in connection with the Maturation Project and described in the Agreement, Appendix 2.1.
- 3.5. In addition to the prerequisites stated in the Grid Connection Agreement and appurtenant appendices, Establishment of Grid Connection of the Generation Facility is subject to obtaining the necessary authority approvals and approvals pertaining to the Electricity Supply System, including an approval to establish and change the Transmission System under the Danish Act on Energinet and the Danish Electricity Supply Act.
- 3.6. If a Party becomes aware of changes, or potential changes, in the prerequisites and basic assumptions for Grid Connection Establishment, which may reasonably be expected to affect the agreed overall time schedule (the Agreement, Appendix 2.3), the Party must notify the other Party thereof without undue delay. If the change, or potential change, is significant to the overall time schedule or esti-

mated establishment budget, notification must be immediate. Following the notification described above, the Parties will jointly discuss and review as necessary the impact of any change(s) and loyally cooperate to modify and adapt the implementation of Grid Connection Establishment, including changes to the overall time schedule (the Agreement, Appendix 2.3) and/or the estimated establishment budget (the Agreement, Appendix 2.4).

#### **4. Collaboration and technical meetings**

- 4.1. All collaboration and communication relating to Grid Connection Establishment will take place directly between the Producer and Energinet.
- 4.2. All decisions to be taken continuously while working to complete Grid Connection Establishment between the Parties must be agreed directly between the Producer and Energinet. Important decisions must be agreed in writing.
- 4.3. Each Party is responsible for dealing with and communicating with its own suppliers.
- 4.4. In addition to steering committee meetings as described in Article 5, the Parties will hold technical meetings during the Grid Connection Establishment phase. The purpose of technical meetings is to clarify and resolve essential matters related to the technical design and other technical issues in relation to the interface between the Producer and Energinet.
- 4.5. At technical meetings under Article 4.4, the Parties must meet in person if either Party makes a written request for such a meeting at least five work-

ing days before the scheduled meeting. The request must include an agenda. At technical meetings, the Parties' representatives must have the qualifications necessary to make technical decisions on the items presented in the agenda. If the Producer does not participate or is unable to make technical decisions at Energinet's request, this may result in a delay and/or increased costs in Energinet's Grid Connection Establishment project.

## 5. Steering committee

- 5.1. As needed, the Parties may appoint a steering committee that will meet at the request of either Party with a notice of at least five working days.
- 5.2. The steering committee will handle overall planning, the overall time schedule, the establishment budget, and conflict resolution. The steering committee will, among other things, discuss and decide on necessary changes to the final design and layout (the Agreement, Appendix 2.1), delays to the overall time schedule (the Agreement, Appendix 2.3) and significant changes to the establishment budget estimate (the Agreement, Appendix 2.4).
- 5.3. The number, distribution and appointment of steering committee members will be agreed separately by the Parties.
- 5.4. Steering committee members as well as primary contact information for both Parties are listed in the Agreement, Appendix 2.5, as of the signing of the Grid Connection Agreement.
- 5.5. As far as possible, the Parties must avoid replacing members of the steering committee. A Party may, however, replace its members on the steering committee upon prior written notice

to the other Party. The Party who replaces a steering committee member must ensure that the impact on the steering committee and the project is minimised, and that the new member of the steering committee holds the necessary qualifications and skills required of steering committee members.

## 6. Energinet's reporting

- 6.1. Energinet will prepare a report, informing the Producer about Energinet's planned construction project activities, resources, and estimated costs for the current calendar year, including project management thereof during grid Connection Establishment.
- 6.2. Energinet will report to the Producer monthly the progress of construction activities for the Establishment of the Producer's Grid Connection.
- 6.3. Energinet must, without undue delay, notify the Producer about any matter which may reasonably be expected to cause overrun of the time schedule or budget in the previous monthly report. If so requested by a Party, such non-compliance must be presented to the steering committee for discussion.

## 7. Time schedule

- 7.1. The Parties have agreed on an overall time schedule for Grid Connection Establishment as set out in the Agreement, Appendix 2.3, which contains a description of the schedule for execution of the activities that each Party is responsible for in relation to Grid Connection Establishment. The overall time schedule includes significant milestones and other critical deadlines.

- 7.2. Both Parties will take all reasonable measures to ensure timely Grid Connection Establishment in accordance with the agreed overall time schedule (the Agreement, Appendix 2.3).
- 7.3. Each Party is required, without undue delay, to notify the other Party of any matter that may reasonably be expected to result in delay of significant milestones or critical deadlines as described in the Agreement's overall time schedule in Appendix 2.3. In case of delay(s), both Parties will take all reasonable measures to remedy and reduce the temporal and financial impact of such delay(s) on the overall project.
- 7.4. The Parties will loyally and constructively negotiate reasonable and necessary amendments to the Grid Connection Agreement, including appendices, in the event of a Party's notice of delay. This applies to necessary changes in the final design and layout (the Agreement, Appendix 2.1), the overall time schedule (the Agreement, Appendix 2.3), or the estimated establishment budget (the Agreement, Appendix 2.4). Revised delivery times, and weather-related or other specific circumstances must be taken into account.
- 8. Activities prior to Grid Connection Establishment**
- 8.1. Prior to Energinet's commencement of Grid Connection Establishment, the Producer must have completed the activities that must be done before Grid Connection Establishment as described in the Agreement's final design and layout section in Appendix 2.1.
- 8.2. Prior to initiating Grid Connection Establishment, the Producer must provide the security required to cover Energinet's expected costs, cf. Article 15. The security must be enclosed with the Agreement in Appendix 2.6.
- 9. Activities during Grid Connection Establishment**
- 9.1. During Grid Connection Establishment, the Parties must perform the activities described in the final design and layout in the Agreement, Appendix 2.1.
- 9.2. Energinet is responsible for developing, constructing, establishing, and installing its own facilities and equipment up to the ownership boundary from the transmission system.
- 9.3. The Producer is responsible for constructing, establishing, and installing its own facilities and equipment up to the ownership boundary from the Producer's electricity generation facilities.
- 9.4. Access to the other Party's property (the other Party's side of the ownership boundary) during Grid Connection Establishment must be agreed in advance. If the Party is to establish etc. in the other Party's facilities during the Grid Connection Establishment, this must be agreed in writing between the Parties.
- 10. Activities prior to energisation and commissioning of the electricity generation facility**
- 10.1. Prior to energisation and commissioning of the generation facility, the Producer must follow Energinet's grid connection procedure as specified in Articles 7-10 of the Grid Connection Terms and Conditions.
- 11. Allocation of Grid Connection Establishment costs**
- 11.1. The Parties must allocate and defray the grid connection costs in accordance with applicable legislation and

regulation in force at the time in question, including approved methods.

- 11.2. This means that the Producer may be obliged to pay additional costs in excess of the costs resulting from the executive order on grid connection of wind turbines, PV power facilities, wave power facilities and hydroelectric power facilities applicable at the time of conclusion of the Grid Connection Agreement.
- 11.3. If new legislation or regulation means that the Producer must pay additional costs in excess of the costs resulting from legislation at the time of conclusion of the Grid Connection Agreement, the Parties must adapt the project, including the establishment budget (the Agreement, Appendix 2.4) and the allocation of costs, so that the Producer pays the share of the costs which the Producer is obliged to under the legislation and regulation in force at the time in question.
- 11.4. Grid connection of certain RE generation facilities (wind turbines, PV power facilities, wave power facilities and hydroelectric power facilities) is subject to the rules and principles for cost allocation in the Executive Order on Grid Connection.
- 11.5. If the Producer is obliged to pay in full or in part Energinet's Grid Connection Establishment costs, these costs also include Energinet's costs of the calculated financial interest rate for the period between Energinet's payments to subsuppliers timewise and until the equivalent payment is received from the Producer. These costs will be included in the establishment budget in the Agreement, Appendix 2.4.

## 12. Calculation of costs

- 12.1. The costs in the estimated establishment budget in the Agreement, Appendix 2.4 are estimated costs of the Producer's Grid Connection Establishment. Estimated costs were calculated during the Maturation Project by mapping the Producer's specific grid connection needs as well as determining the final location, design, and layout (the Agreement, Appendix 2.1), and overall time schedule (the Agreement, Appendix 2.3) for Grid Connection Establishment.
- 12.2. The final costs and mutual distribution of these between the Parties will be calculated based on the final statement and accounts for Grid Connection Establishment calculated at the time of completion of the project.

## 13. Payment

- 13.1. If the Producer has to pay Energinet in full or in part for Grid Connection Establishment under applicable legislation and regulation, articles 13 and 14 will apply.
- 13.2. In connection with the monthly reports, cf. Article 6, Energinet will send monthly electronic invoices for the settlement of the Producer's share of Energinet's actual costs incurred in the period.
- 13.3. Payment must be made to Energinet within 30 days of the Producer's receipt of the electronic invoice. In the event of non-payment or late payment from the Producer, Energinet is entitled to charge interest from the date the invoice became overdue. Interest on late payment(s) is fixed at 5% above the Danish central bank Danmarks Nationalbank's official current lending rate.

## 14. Documentation

- 14.1. As documentation of costs stated in monthly invoices, Energinet will enclose standard extracts from Energinet's financial management system, which contains detailed statements for every Energinet supplier and employee as well as man-hours and materials used for the Grid Connection Establishment.
- 14.2. To the extent required, the Producer may request additional documentation of specific activities, if such documentation can be procured without a significant use of resources or time by Energinet to meet the Producer's specific request.
- 15. Provision of security**
- 15.1. Energinet requires the provision of adequate security for Energinet's costs incurred in connection with the implementation of the Grid Connection Agreement, see Article 15.2 below. The provision of security is attached as Appendix 2.6 to the Agreement.
- 15.2. The Producer's provision of security must equal full security for Energinet's costs, assumed in confidence in the performance of the Grid Connection Agreement, cf. the Agreement, Appendix 2.4, including construction costs of Grid Connection Establishment.
- 15.3. Security provided must be in the form of an on-demand guarantee from a bank or a similar guarantee approved by Energinet, or an equivalent or better provision of security. Any equivalent or better provision of security may be a parent company guarantee on on-demand terms, if such parent company guarantee is approved by Energinet.
- 15.4. Security must be provided to and received by Energinet no later than the day after the Parties have signed the Agreement.
- 15.5. Energinet may, in specific cases, deviate from the requirement for provision of security if the requirement is not proportional and Energinet's risk is insignificant.
- 15.6. Security is released after Energinet has issued an FON to the generation facility.
- 16. Responsibility**
- 16.1. In addition to the liability set out in the Grid Connection Terms and Conditions, the following liability also applies during the Grid Connection Establishment phase.
- 16.2. Each Party will be liable for timely compliance with current legislation and other relevant regulation, including planning requirements (for example environmental assessments) and requirements for their own facilities and installations. Each Party will be liable to any public authority for non-compliance with requirements for the activities to be performed and installations to be fitted by that Party or its contractors in connection with performance of the Grid Connection Agreement.
- 16.3. Neither Party can bring a claim against the other Party for any delay resulting from that Party's own delayed performance or other non-performance, including of the requirements specified as stated in the Agreement, Appendix 2.1.
- 16.4. The Producer cannot bring a claim for delays caused by the Producer's non-performance of significant milestones specified in the overall time schedule in the Agreement, Appendix 2.3, or other delays resulting from matters for which the Producer is responsible.
- 16.5. The overall time schedule and the estimated establishment budget for the

Grid Connection Agreement are based on the final design and layout in the Agreement, Appendix 2.1, which are known and identified at the time of the signing of the Grid Connection Agreement. To the extent that the final design and layout do not comprise an exhaustive description of the project or result from changes to the project which could not have been reasonably foreseen or matters outside Energinet's control, the Producer cannot bring a claim against Energinet for any delays in the overall time schedule or extra costs incurred as a result hereof.

- 16.6. If the Producer fails to meet significant milestones in the overall time schedule in the Agreement, Appendix 2.3, the Producer must submit a report describing the background of the delay, including a proposal for a new overall time schedule to achieve significant milestones in the Agreement, Appendix 2.3, no later than two weeks after receipt of a request from Energinet. On the basis of this report, Energinet and the Producer will agree on a new, valid, overall time schedule to reach significant milestones in the overall time schedule, keeping the delay as short as possible in relation to the original time schedule, because the applicable legislation makes it impossible to reserve grid capacity in the Transmission System. If it is not possible to reach an agreement on a new overall time schedule, Energinet will set and provide notification of a final deadline for meeting a new overall time schedule, including significant milestones, on the basis of the proportionate delay and adding a default of maximum 3 months depending on physical/weather conditions. If the Producer does not meet the new

overall time schedule to reach significant milestones, this non-compliance will be considered a material breach of the Grid Connection Agreement.

## 17. Insurance

- 17.1. Both Parties must take out and maintain the following insurance during Grid Connection Establishment:
- a) Any compulsory insurance required under legislation in force, such as industrial injury and liability insurance, industrial disease insurance, motor vehicle insurance.
  - b) Third-party insurance and product liability insurance, covering any liability that may be incurred under the Grid Connection Agreement or under applicable Danish law, at DKK 25,000,000 per actionable event and per insurance policy.
- 17.2. If a Party has not taken out or maintained insurance in accordance with the above, the other Party is entitled to demand that insurance is taken out in compliance with these provisions within a period of 30 days. If insurance is not taken out within the period specified above, the other Party is entitled to terminate the Grid Connection Agreement without further notice.
- 17.3. Each Party is entitled to require by request that the other Party to present an insurance certificate and other relevant documentation that sufficiently proves the Party's compliance with the insurance requirements.
- 17.4. Each Party must promptly notify the other Party in writing of any event(s) which may give rise to claims for damages, accompanied by a detailed description of the relevant event(s).

## 18. Termination and annulment



- 18.1. During Grid Connection Establishment, the Grid Connection Agreement can be terminated by the Producer with two months' written notice to Energinet.
- 18.2. During Grid Connection Establishment, Energinet is entitled to terminate the Grid Connection Agreement in writing with two months' notice in the event of material breach of the Grid Connection Agreement by the Producer, see for example Article **Fejl! Henvisningskilde ikke fundet..** If the Producer does not provide the necessary security, see Article 15, before the time limit specified in Article 15.4, Energinet is entitled to terminate the Grid Connection Agreement with seven calendar days' written notice to the Producer.
- 18.3. If the Producer terminates the Grid Connection Agreement during the Grid Connection Establishment phase, or Energinet terminates the Agreement as described in Article 18.2, the Producer must compensate Energinet for all actual costs incurred or committed to in expectation of performance of the Grid Connection Agreement until the date of termination as a result of said termination. This also includes necessary costs of restoring the Transmission System. Energinet must take all reasonable measures to mitigate and limit these costs and will be compensated for the associated costs.
- 18.4. In the event of termination, the Parties must, within 5 calendar days after receipt of the termination notice, meet and thoroughly review all project tasks and activities, assess the financial consequences of the termination, and the performance of any practical aspects of the termination.
- 18.5. If changes or potential changes to the assumptions, c.f. Article 3.5, show that the realisation of the project is not realistic and Grid Connection Establishment has not been initiated, the Grid Connection Agreement will be annulled in its entirety without further notice. Annulment of the Grid Connection Agreement is actualised the day after the Parties jointly have concluded that the project realisation is not realistic.