4

The legal framework for hydropower development

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4.1 Introduction

This chapter describes the legislative and political framework for the power sector. Chapter 10 discusses water resource management in more detail.

A developer must have a licence pursuant to the Watercourse Regulation Act to carry out regulatory measures or divert water in a watercourse. This Act also gives the licensee the authority to expropriate the necessary property and rights in order to carry out regulatory measures. The Industrial Concession Act specifies that anyone who acquires ownership, user rights or long time user rights to a waterfall must obtain a licence. Development of a waterfall and construction of a power station usually require an additional licence pursuant to the Water Resources Act. The Energy Act requires licensing of all installations to generate, transmit and distribute electricity, from power station to consumer. A licence pursuant to the Energy Act is also required to trade electricity.

The legislation mentioned above is of particular importance to the energy and water resources sector. Other general provisions relevant to the sector are discussed later in this chapter.

Figure 4.1 shows which legislation applies to the different parts of the Norwegian hydropower system, from impounding water in a regulation reservoir in the mountains until electricity is delivered to the consumer.

4.2 Special legal framework for hydropower development

When a watercourse is used for hydropower development, conflicts may arise between a number of user groups and environmental interests. It has therefore been necessary for the authorities to develop extensive legislation relating to hydropower, which lays down requirements for obtaining licences for various purposes. The most important elements in the framework for hydropower development are the protection plans for water resources, the Management Plan for Water Resources, the Industrial Concession Act, the Watercourse Regulation Act and the Water Resources Act. The water resource authorities are responsible for managing water resources within this framework.

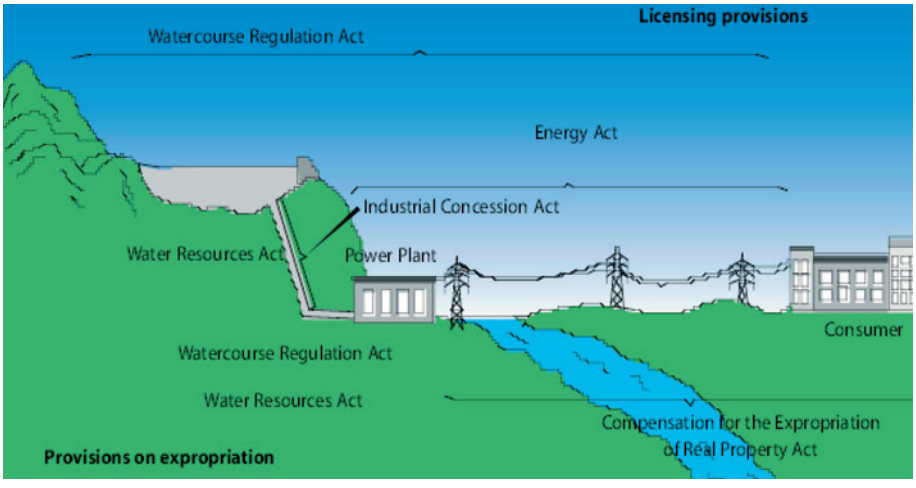
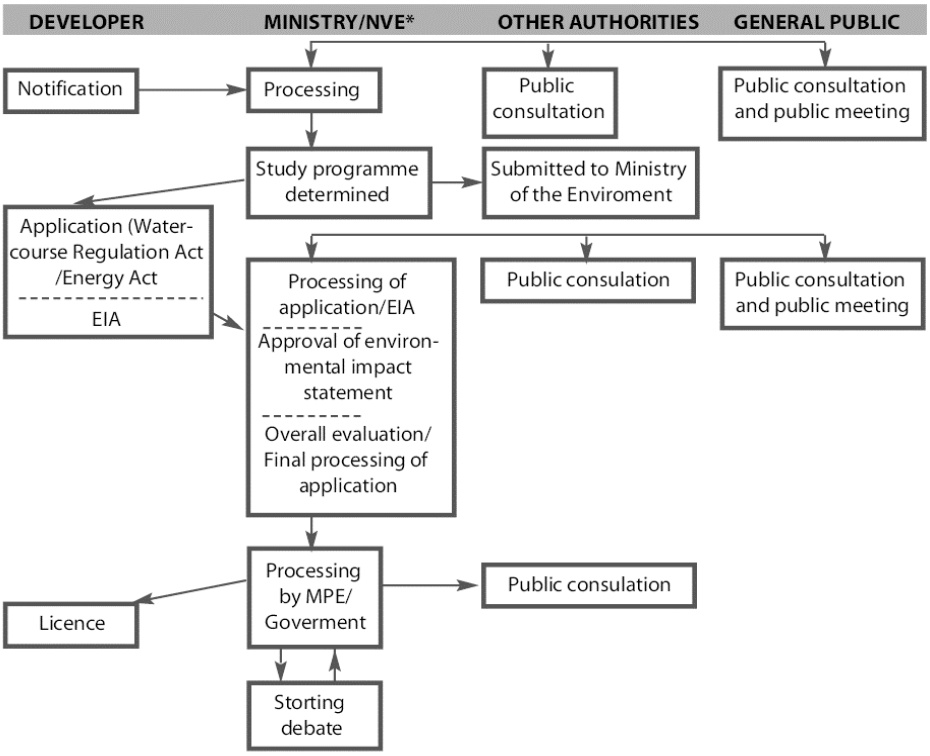


Figure 4.1 Legislation governing licensing in the hydropower sector



**Norwegian Water Resources and Energy Directorate*

Figure 4.2 Administrative procedures involved in licensing hydropower developments (more than 40 GWh/year) which require an EIA pursuant to the Planning and Building Act

The licensing authorities are the bodies responsible for processing licence applications and for issuing licences. They include the parliament, the government, the Ministry of Petroleum and Energy and the Norwegian Water Resources and Energy Directorate (NVE).

In cases where a license is required pursuant to the Industrial Concession Act, the Watercourse Regulation Act or Water Resources Act, the NVE is responsible for coordinating application procedures. Once a project has been approved in the Management Plan for Water Resources, the actual application process starts when the developer sends notification of the project to the NVE. This notification is released to public inspection and circulated to local authorities and organisations for comment.

The NVE, in consultation with the local authorities concerned and other authorities, then decides whether an environmental impact assessment (EIA) must be carried out in accordance with the provisions of the Planning and Building Act. In accordance with the environmental impact regulations, a consequence analysis is always required for all power stations larger than 40 GWh. Consequence analysis is required for plants of more than

30 GWh if significant environmental or social impact can result. Even if notification is not required pursuant to the Planning and Building Act, the consequences of the project must be described in detail as part of the licence application.

If notification is required pursuant to the Planning and Building Act, NVE will determine the final content of the study programme after submitting this to the Ministry of the Environment. The authorities and organisations which received the application for comment also receive a copy of the final study programme.

When the study programme has been completed, it is submitted together with the licence application. The application and environmental impact statement, if any, are then subject to a process of public consultation with government authorities, organisations and landowners affected by the proposal. The NVE then makes an overall evaluation of the project and submits its recommendations to the Ministry of Petroleum and Energy.

The Ministry prepares the matter for the government and submits its recommendation on the project. This recommendation is based on the application, the recommendations of the NVE, the views of the other ministries involved and of local authorities, and the Ministry of Petroleum and Energy's own evaluation. The government then makes a decision on development and regulation in the form of a royal decree. In the case of a major or controversial watercourse regulation or hydropower development, a Proposition is submitted to the Storting so that it has an opportunity to debate the matter before a licence is formally granted by the King in Council. Figure 4.2 shows the administrative procedures involved and what is carried out by the developer, the licensing authorities and other authorities involved, and in relation to landowners and other parties with an interest in the matter.

Power stations with an installed capacity of less than 10 MW are subject to a simpler process than larger projects. In addition, the Ministry has delegated the authority to licence power stations with an installed capacity of less than 10 MW pursuant to the Water Resources Act to the NVE. This also contributes to faster consideration.

4.2.1 Protection plans and the Management Plan for Water Resources

Many watercourses are permanently protected against hydropower developments. Parliament adopted four protection plans between 1973 and 1993, and a supplement in February 2005. This is called the Protection plan for watercourses. These plans represent binding instructions to the authorities not to licence regulation or development of the rivers included in the plan for the purpose of hydropower generation. When evaluating the rivers to be included, safeguarding a representative cross-section of Norwegian river systems have been considered important. Any distinctive features and opportunities for outdoor recreation in and near the rivers are also important considerations. A total hydropower potential of about 44 TWh per year has been protected from hydropower development. River system protection was codified in the 2000 Water Resources Act, which defines what is meant by protected watercourses and lays down provisions for their protection also from types of development other than hydropower projects.

The Management Plan for Water Resources is a recommendation from the government to the Storting. See

Report No 60 (1991–92) to the Storting. It sets priorities for considering individual hydropower projects and divides these into two categories. Those in category I can be considered for licensing now, as can certain projects exempted from the Management Plan. Projects in category II and projects not covered by the Management Plan cannot be considered for licensing at present, but may be used for hydropower development or other purposes at a later date. The order of priority for considering individual hydropower projects is based on economic considerations and the degree of conflict with other interests. In other words, the aim to ensure that those rivers which can provide the cheapest power with the smallest environmental impact are to be developed first. However, approval of a project in the Management Plan does not mean that the authorities have made an advance commitment to grant a licence. The licensing authorities have sometimes refused applications for projects in category I. Provisions in the Watercourse Regulation Act and the Water Resources Act provide the licensing authorities with the authority to postpone the processing of applications which, pursuant to the Management Plan, should not be considered for licensing at the present time.

Since the Storting considered the Management Plan in 1993, the framework for hydropower development has altered in a number of ways. Most projects which are notified today are technically, environmentally and financially different than that those originally presented in the Management Plan. The government is accordingly planning considerable modification and simplification of the Management Plan, with the current division of hydropower projects by categories due to be replaced by one based on river systems.

4.2.2 The Industrial Concession Act

In order to utilise water for electricity generation, a waterfall or head is required which allows the potential energy to be exploited. The owner of a waterfall is the landowner. The acquisition of rights of ownership, user rights or long term use rights of use to a waterfall by others than the state requires a licence pursuant to the Industrial Concession Act if it is assumed that the waterfall can provide an output exceeding 4 000 natural horsepower (2 944 kW) after regulation, either alone or in conjunction with other waterfalls which would be technically and economically feasible to develop with it.

When the Act was passed in 1917, it was framed in a way which adequately safeguarded the interests of the state and the general public. This included provisions on pre-emption rights, licences of limited duration and the right of reversion to the state when a licence expires. The right of reversion means that the state takes over a waterfall and any hydropower installations free of charge when a licence expires. Pre-emption means that the central government or the county council has a right to enter into the purchase agreement instead of the purchaser, but with the same rights and obligations as are set out in the contract with the latter.

Pre-emption rights and the right of reversion to the government apply only in the case of private ownership. A power station is considered to be private when the state owns less than 2/3 of the company. The state has a pre-emptive right to acquire shares or stakes whose transfer would result in the state owned proportion falling below 2/3. If the state chooses to not use its pre-emptive right, the company's time unlimited licence is converted to time limited. In such cases, the

licence runs for 60 years from the date when the original licence was granted, and the rights revert to the government when the licence expires.

Until the amendment in 1992, the government's pre-emption rights with respect to waterfalls and power stations could only be exercised the first time a waterfall or power station was acquired. After the amendment, the government may also exercise its pre-emption rights over the resale of local authority-owned power utilities or the sale of shares or interests in such companies. Pre-emption rights apply when a property transfer results in the public share of ownership dropping below two thirds, regardless of whether the privately-owned share is held by one or several companies. The county authorities have pre-emption rights for waterfalls on the first occasion when a licence for the acquisition of a particular waterfall or power station is granted, but this only applies if the government chooses not to make use of its pre-emption rights. Decisions by counties to exercise their pre-emption rights must be approved by the King in Council.

The Industrial Concession Act includes mandatory terms relating to licence fees and the obligatory sale of power to the local authorities in which the waterfalls are situated. These entitle the local authority to buy 10 per cent of the power generated at cost. The Act also authorises the introduction of further conditions relating to environmental considerations and the local community.

4.2.3 The Watercourse Regulation Act

In order to regulate output from a power station over the year to correspond with varying demand, the ability to use a regulation reservoir to store water can be of crucial economic importance. See Chapter 2. Ownership rights to a waterfall do not in themselves confer the authority to use water from a regulation reservoir for power generation. This requires a separate licence pursuant to the Watercourse Regulation Act.

The Act applies to regulatory measures which even out fluctuations in water flow in a river during the year. As a general rule, it provides the authority to prescribe similar conditions to those authorised by the Industrial Concession Act, but additional special terms may be imposed to reduce the damage caused to a watercourse by regulation. For example, special rules may be specified about the establishment of a fish fund if regulation damages the fish stocks in a watercourse. Rules for reservoir drawdown are also issued, including provisions on the minimum permitted rate of flow and the volume of water which may be released at different times of the year. The highest and lowest permitted water levels are specified in these rules. Licences for regulatory measures may be revised after 30 or 50 years, depending on when they were issued. The NVE decides whether revision is to take place after an authority outside central government (generally the local authority) or others representing the public interest have required revision of the conditions in a licence. This procedure primarily provides opportunities to specify new conditions to mitigate environmental damage which has occurred as a result of regulatory measures.

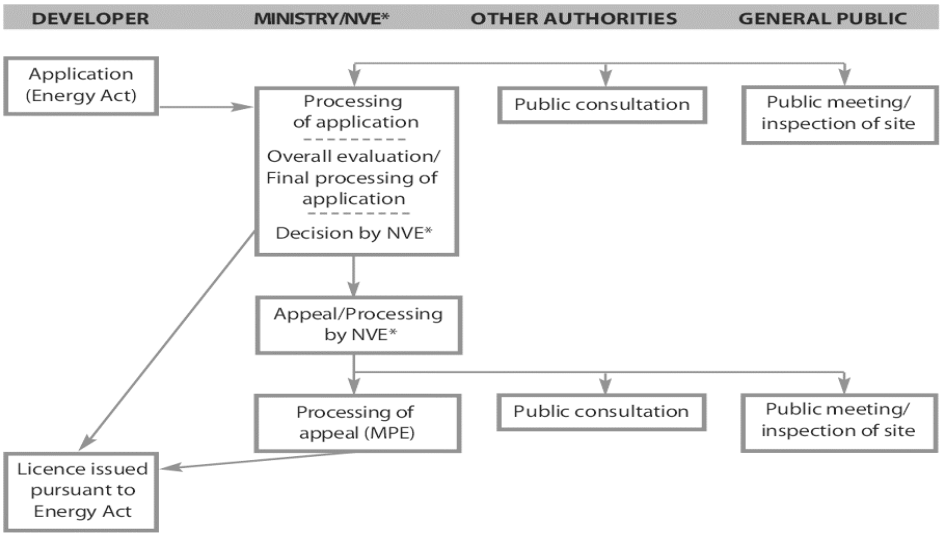
Licences for watercourse regulation also include requirements on obligatory sales of power and annual licence fees to central government and to the local authority or authorities in which the watercourse is situated. The fee is determined on the basis of the increase

in electricity generation resulting from regulation, and is intended to compensate for any adverse effects. In addition, the creation of a business development fund for the local authority is generally required. Such funds are intended partly to compensate for any adverse effects, and partly to ensure that the local authorities enjoy a share of the economic benefits of hydropower development. Establishment of a business development fund may also be required pursuant to the Industrial Concession Act.

4.2.4 The Water Resources Act

Even if a developer already owns the rights to a head of water and does not need to regulate a watercourse, measures necessary to exploit the hydropower potential normally will require a separate licence pursuant to the Water Resources Act. The Water Resources Act is a general act which applies to all types of works in a watercourse. It came into force on 1 January 2001 and replaces most of the 1940 Watercourses Act. Its purpose is to ensure that river systems and ground water are used and managed in accordance with the interests of society. The main criterion for giving permission for works in watercourses is that their benefits are greater than the damage or inconvenience to public and private interests in the river or catchment area. The Water Resources Act also provides the authority to impose a number of conditions to compensate for and mitigate the adverse impacts of developments in river systems. This is further discussed in Chapter 10.

Some micro and mini power stations can have so insignificant impact that they can be licence exempt. The water authorities can give advance assurance of licence exemption. This Act is further discussed in Chapter 2.



*Norwegian Water Resources and Energy Directorate

This figure shows administrative procedures for licensing of projects that come under the Energy Act, and the most important differences from the procedures pursuant to the water resources legislation, cf. figure 4.2.

Figure 4.3 Administrative procedures for licensing electrical installations pursuant to the Energy Act (power lines, gas-fired stations, wind farms, etc.)

4.3 The Energy Act

The Energy Act of 29 April 1990 no. 50 establishes the organisational framework for Norway's power supply system. Through the Energy Act, Norway became the first country in the world to open for customers to freely choose power supplier. The Act regulates through different licence schemes including: The construction and operation of electrical installations, district heating systems, electricity trading, control of monopoly operations, foreign trade in power, metering, settlements and invoicing, the physical market for trade in power, system coordination, rationing, electricity supply quality, energy planning and contingency planning for power supplies. The Energy Act has been the object of evaluation in relation to the EU's new electricity market directive (directive 2003/54/EC) and the decree on cross boarder electricity trading (decree EC no. 1228/2003 and a legislative amendment proposal was presented to parliament in the spring of 2006.

The authority to make decisions pursuant to the Energy Act has largely been delegated to the NVE. The most important exception is that the Ministry of Petroleum and Energy has retained the authority to issue electricity export and import permits.

The Ministry of Petroleum and Energy is the appeals instance for decisions made by the NVE pursuant to the Energy Act. As a general rule, the Ministry will therefore only consider matters involving an appeal against a licensing decision made by the NVE. The King in Council is the appeals instance for matters dealt with in the first instance by the Ministry, such as export and import licences.

4.3.1 Administrative procedures pursuant to the Energy Act

Applications should be sent to the licensing authority, which normally is NVE.

If the application is covered by the Planning and Building Act chapter VII-a, a consequence analysis must be included with the application.

If an EIA pursuant to the Planning and Building Act is required for a project, the same procedures are followed both for projects licensed under the Energy Act and for those licensed under legislation relating to water resources (see figure 4.2).

If no EIA is required pursuant to the Planning and Building Act (for example for small power lines), the first step is an application to the NVE pursuant to the Energy Act. The consequences associated with such cases are evaluated with the application and NVE's assessment pursuant to the Energy Act. NVE is responsible for processing all applications, for making the documents available for inspection by those affected, and for holding public meetings if necessary.

Important differences from procedures for projects dealt with under the water resources legislation are that the NVE itself makes decisions in cases pursuant to the Energy Act, and that no recommendation is sent to the Ministry unless the Ministry is the first instance pursuant to the Act. See section 4.3 above.

In addition, the Energy Act does not include the special provisions found in the water resources legislation which require matters of principle and appeals to be submitted to the parliament.

If an NVE licensing decision is appealed, an ordinary appeals procedure is initiated pursuant to the provisions of the Public Administration Act.

The Ministry holds further public consultations as part of the appeals procedure if necessary, and a public meeting and inspection of the site generally also takes place. When the Ministry has made a decision on the appeal, it is final and the only recourse is to bring an action against it.

4.3.2 Local area licences

A local area licence is required for the construction of lines and electricity distribution installations carrying a voltage of 22 kV or less. The party which holds a local area licence need not apply for a licence pursuant to the Energy Act for each separate installation. The procedures are thus simpler than in cases where a construction and operating licence must be obtained. Local area licences include a requirement for distribution companies to supply electricity to customers within the geographical area covered by the licence.

4.3.3 Construction and operating licences

Before the construction of power stations, transformer stations and transmission lines not covered by a local area licence as described above, the developer must apply for a separate construction and operating licence for each installation. This applies to all electrical installations, including gas-fired power stations, wind farms and facilities required for hydropower stations if these exceed the size limits specified in regulations issued pursuant to the Energy Act.

The purpose of this licensing system is to ensure that electrical installations are constructed and operated on the basis of uniform standards. Constructing high-tension transmission lines and transformers often has a substantial impact on the surrounding environment. In line with the object of the Energy Act, licensing procedures take account of both socio-economic considerations and the public interest – with regard to the environment, for instance.

A number of conditions can be stipulated in the licences. The conditions are as stated in the Energy Act, paragraph 3-4 and the regulations in the law. They include a requirement for the installation to contribute to rational energy supplies, provisions on project start-up timing, construction, technical operation, utilisation of capacity at each plant, terms intended to avoid or limit damage to the environment or cultural monuments, stipulations relating to the organisation and expertise of a company granted a licence, and other conditions which may be required in the individual case. When applications to construct gas-fired power stations at Kollsnes and Kårstø were processed, for instance, the licences included a requirement to plan for CO_2 removal from the flue gases at a later date.

Applicants must prepare long term plans for the development of power systems within their area. For more information on energy planning, see chapter 4.3.9. Licensees are obliged to cooperate in harmonising their individual power supply plans with each other and with the national power supply system.

4.3.4 Trading licences

Any entity which trades electricity or which may be involved in monopoly operations must hold a trading licence. Only the state may trade electricity without a licence. They are issued by the NVE.

The largest group covered by these arrangements are undertakings involved in the retail sale of electricity – either generated by themselves or purchased – transmitted via their own grid to end-users for general con-

sumption in a specific area, and others which own a distribution or transmission grid. In addition, this covers pure trading companies that buy power from producers or over the power market and sell it further. If operations requiring a licence are limited in extent or only make up a small proportion of an undertaking's activities, a trading licence can be issued on simplified terms. Power brokers who do not take any responsibility for the financial aspects of a contract do not need to hold licences.

Trading licences are an essential part of the market-based power trading system. They are intended to safeguard customer interests by helping to ensure financially-sound electricity trading and to regulate grid management and operation as a natural monopoly.

The system of trading licences provides the authority to regulate grid management and operation, which form a natural monopoly. Prices charged by the distribution companies for electricity transmission may not exceed what is required over time to cover grid investment and operating costs plus a reasonable return on investment. Vertically-integrated utilities which hold trading licences must keep separate accounts for grid management and operations and for operations subject to competition (sales and production). This enables the NVE, which is responsible for regulating monopoly operations, to evaluate whether prices set for power transmission are reasonable. Moreover, licensees are required to provide market access to all customers for grid services by offering non-discriminatory and objective point tariffs and terms. The NVE has issued further regulations on income frameworks, charges and metering, and settlement of electricity trades. See Chapter 6 for further details about the regulation of monopoly operations.

4.3.5 Marketplace licences

A licence is required for the organisation and operation of marketplaces for physical trading in electrical energy. Such marketplaces play a key role in market-based electricity trading. Marketplace licences make it possible for the energy authorities to specify conditions and regulate various factors, including price-setting, obligations of the marketplace towards system operators, transparency, conditions for players proposing to engage in trade, neutral behaviour and non-discrimination. Power trading is further discussed in Chapter 7.

4.3.6 Licences to trade power with other countries

Pursuant to the Energy Act, a licence is also required for foreign trade in electricity. The Ministry of Petroleum and Energy is responsible for issuing such licences. The organisation should ensure the most secure and efficient power exchange possible with foreign countries. Statnett SF and Nord Pool Spot AS are licensed to organise trade in power with foreign countries. Foreign trade in electricity is further discussed in Chapter 7.

4.3.7 District heating systems

In accordance with the Energy Act, a general licence is required for district heating plants with a total power output of more than 10MW, as specified by the regulations. There is also an option to apply for a licence for smaller plants if the developer wants the municipality to order compulsory connection to relevant district heating customers in accordance with the Planning and Building Act.

The municipal council can resolve, in accordance with the Planning and Building Act, to order compulsory connection to plants which have been awarded licences. This means that buildings constructed within the licensing area must be connected to the district heating system.

The Act also regulates the prices which may be charged for district heating. These must not exceed charges for electrical heating in the same supply area. If it is mandatory for the customer to be connected to the installation, it is also possible to appeal to the NVE over prices and other conditions.

4.3.8 Responsibilities for system coordination, rationing and delivery quality

System operator responsibilities include ensuring an instantaneous balance between total generation and consumption of electricity at any given time. The system operator must also take steps to ensure a satisfactory quality of supply in all parts of the country. The Ministry of Petroleum and Energy appoints the system operator, which is Statnett SF, and specifies terms for this appointment. The department has in the energy regulations provided more detailed regulation on system responsibility. For further information on Statnett SF, see Chapter 5.4.

The Energy Act also contains a provision on electricity rationing, including enforced reductions in supply and requisitioning. Rationing can be put into effect if extraordinary circumstances make this necessary. The provision states that NVE is the rationing authority and is responsible for planning and administrative implementation of any measures required in connection with such action. Separate rationing regulations have been issued by the directorate.

The Act also confers the authority to issue regulations on delivery quality in the electricity system. New regulations on delivery quality in the power system was resolved in the autumn of 2004 and came into effect on 1 January 2005.

4.3.9 Energy planning

One chapter of the Energy Act deals with energy planning, which is intended to ensure the evaluation of different solutions for developing a rational energy supply system in social terms. Everyone licensed pursuant to the Act to operate electrical or district heating facilities is duty-bound to participate in such planning. The NVE has issued regulations on energy studies. According to the regulations, all distribution companies are to provide an energy report for each municipality within their distribution area. This should be updated each year. The energy study is to describe the current energy systems and the energy mixes in the municipality, expected stationary energy demand in the municipality and the most relevant energy solutions for areas in the municipalities in which the most significant changes in energy demand are expected. The distribution companies should also annually hold a public meeting with the municipality and interested energy players where the energy study is presented and discussed. The first energy study was carried out in 2004 and was updated in 2005.

4.3.10 Contingency planning for power supplies

Because power supplies are so important to society, and because of the public interest related to power supplies, the Energy Act includes provisions which confer the authority to implement any contingency measures that are necessary to protect installations against damage from natural condi-

tions, technical failure or deliberate sabotage in peacetime or during a state of emergency or in the event of war. These provisions apply to power supplies in general, irrespective of whether or not undertakings are licensed pursuant to the Act.

During a state of emergency or in the event of war, control of power supplies passes to the Power Supply Preparedness Organisation. This body includes all the entities responsible for power supplies during peacetime. The NVE is charged with coordinating contingency planning during a state of emergency or in time of war.

NVE may also assign duties to the preparedness organisation during peacetime in the event of damage to power supply installations from natural conditions, technical failure, terrorist action or sabotage. Regulations on contingency planning in the power system have been issued by the NVE.

4.4 Other legislation

4.4.1 The Planning and Building Act

The Planning and Building Act applies to a large extent in parallel with the energy and water resources legislation. This means that almost all projects must be processed in accordance with both sets of legislation.

Provisions in the Planning and Building Act which relate to an EIA apply to all projects pursuant to the energy and water resources legislation. Briefly, these provisions make an EIA mandatory for all types of large project, and for smaller projects if they satisfy certain criteria.

Efforts are currently being made to harmonise the planning provisions of the Planning and Building Act with the provisions in the energy and water resources legislation relating to hydropower development and the construction of power lines.

The provisions of the Planning and Building Act relating to building are generally not applicable to projects pursuant to the energy and water resources legislation. This follows from the regulations relating to administrative procedures and regulation of building projects issued pursuant to the Planning and Building Act.

4.4.2 Competition legislation

The new Competition Act came into effect 1 May 2005 and provides the legal framework for the section of the power market subject to competition and applies in addition to the Energy Act. The Competition Act is intended to promote competition in order to secure efficient use of society's resources. Enforcement gives particular weight to consumer interests.

Cooperation which inhibits competition and misuse of a dominant market position are prohibited under the Act. It also allows the competition authorities to impose substantial fines if these prohibitions are breached, and to reduce such penalties for companies which assist the authorities in exposing such violations. There also is a general compulsory requirement to notify mergers and acquisitions. The Norwegian Competition Authority serves as the regulator in the power market.

4.4.3 Natural gas legislation

The adoption of the EU's gas market directive (98/30/EC) in Norwegian law has necessitated the creation of a legal framework for such operations in Norway. The Act of 28 June 2002 no. 61 on common rules for the internal market in natural gas (the Natural Gas Act) applies to the transmission, distribution, supply and storage of natural gas.

It incorporates the directive's central principle that natural gas undertakings and qualified customers must be given access to natural gas transmission and distribution networks.

The Natural Gas Act from 14 November 2003 no. 1342 chapter 2 of the natural gas regulations specifies more detailed rules about EIAs and licensing for different types of downstream natural gas infrastructure. Systems for transporting natural gas, including transmission pipelines, LNG installations and associated facilities primarily intended to deliver to natural gas undertakings in another region, cannot be constructed or operated without a licence from the Ministry. Minor LNG installations and small-scale facilities for transmission or distribution of natural gas do not need to be licensed. The authority to make decisions pursuant to the natural gas regulation chapter 2 has now been delegated to NVE.

The EU adopted a new gas market directive (2003/55/EC) on 26 June 2003 to replace the existing provisions. The directive makes it necessary to change Norwegian regulation in the area, as specified in chapter 9.1.1. A legislation change proposal was presented to parliament in the spring 2006. Within the framework of gas market directive II, it is possible to take into consideration special conditions in the countries where the gas market is poorly developed. The implementation of this directive in Norway will take into consideration that the Norwegian down stream market is under development, in line with directive article 28 (2).

Downstream gas activities in Norway are described in greater detail in chapter 3.2.4.

4.4.4 User protection and power contracts

The Norwegian Ministry of Justice and the Police presented in Proposition to Odelsting no. 114 (2004 – 2005) a few changes to the legislation of 21 June 2002 no. 34 on consumer purchase (the Consumer Act). The background for the changes was that the government in Proposition to Odelsting no. 44 (2001-2002) 'Om lov om forbrukerkjøp (The Consumer Act)' signalled that issues relating to legislative regulation of consumer protection and electricity agreements would be returned to.

The draft legislation proposal was treated by parliament in the spring of 2006 and primarily entails that the Consumer Act also applies to the transfer and supply of electric energy. This means that consumers have the same protection with respect to electricity supply as for other services covered by the Consumer Act. This means that the consumer, as specified in more detailed conditions, can exercise their payment withholding rights, demand price reductions and compensation as a result of the distribution company's breach of contract. Use of the Consumer Act regulations is, through legislation changes, adapted to the special conditions of the goods which apply to the supply of electric energy. This includes the issue of distribution company responsibility in the event of failure to supply electricity. Legislation has also been introduced which places a clear framework around the rights of distribution companies to cease supply in the event of consumer payment default, in addition to the statutory basis for the Elklagenemndas[4] activity.

[4] The Elklagenemda handles disputes between energy companies and consumers. The tribunal is set up by agreement between the Norwegian Electricity Industry Association and the Norwegian Consumer Council, and has been in operation since 1991. The tribunal consists of a chairman in a judiciary position and two members appointed by each of the two parties. The members are appointed for one year at a time. Case handling is provided free of charge to consumers. See http://forbrukerportalen.no/Organisasjoner/elklagenemnda

4.4.5 The Pollution Act

The Pollution and Waste Act of 13 March 1981 applies to most pollution sources, including those within the energy and water resources sector.

The Pollution Act specifies that nobody has the legal right to pollute without having been given permission to do this. These types of permits are for individual activities and for specific conditions in accordance with the Act's paragraph 11 or in different regulations on polluting activities.

The general rule is that polluting activities must have a licence (individual permit) from the pollution authorities.

The Pollution Act is administered by the Ministry of the Environment. An application for a discharge permit for industrial activities and similar should be sent to The Norwegian Pollution Control Authority (SFT) or to the county governor's department of the environment for activities where the county governor is the pollution authority for.

Energy and watercourse developments can require a permit under the Pollution Act. This applies to gas-fired power stations and hydropower stations. For large hydropower plants and regulation, the pollution effects are evaluated in the licensing process in accordance with the Watercourse Regulation Act. For smaller developments, procedures have been developed for coordination of permits. For example, pursuant to the Water Resources Act so that a permit in accordance with the Water Resources Act can be instead issued in accordance with the Pollution Act and the reverse.

4.4.5 Other legislation

In addition to the licensing procedures pursuant to the energy and water resources legislation and the Planning and Building Act discussed earlier, energy and water resources projects may also require permits pursuant to other legislation, such as the Cultural Heritage Act and the Nature Conservation Act etc.