

## **New rules on geothermal licensing?**

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### **Background and challenge**

Denmark has prolific geothermal resources in its subsoil which could support a transition to renewable energy supplies for district heating in Denmark. However, few facilities for production of geothermal heat have been established, contributing only a minuscule fraction of Danish energy and heating supply, and those facilities that do produce run into operational difficulties and interruptions at regular intervals. In addition, due to exploration and drilling risk, geothermal is having a hard time competing from a price perspective with e.g. biomass.

Geothermal producers must fulfil two distinct regulatory frameworks: 1), the Danish Subsoil Act which emphasizes the licensee's work program in the licence area, and the licensee's technical and financial capacity, and 2), the Danish Heating Supplies Act, which emphasizes offtake of the heat/geothermal water, heating contracts and pricing. This has been perceived as a regulatory barrier to development of geothermal energy.

During 2019-20, the Danish Energy Agency (DEA) has undertaken an investigation and interview round amongst the players in the geothermal market to determine if the lack of development in this part of the energy market is due to regulatory barriers.

Yesterday, 24 August 2020, at a mini-conference at the DEA in Copenhagen, the DEA unveiled its findings and asked participants for feedback on its recommendations.

### **New principles for awarding geothermal licenses?**

In short, the DEA proposed that applicants for geothermal licences in the future must first obtain a legally binding contract with a district heating company, and only then apply for a licence from the DEA. There was very little information on the first part of the process – the negotiation and contracting process between an interested geothermal developer and the offtaker of geothermal energy. This is – it must be admitted – also not within the remit of the DEA but rests with the district heating companies and the municipalities (some of which are the owner of the district heating business in their area).

As for the second step, or the second part of the equation, the DEA's own award of licences, the piece of news was that the DEA will award licences on the grounds of the proposed work program, the applicant's technical capacity and financial capacity (all of which is business as usual) – but also – or first and foremost – on the basis of the district heating contract, i.e. such a contract must in this future DEA view be considered a sine-qua-non to the award of a licence. According to the DEA, this would most likely entail changes to the Danish Subsoil Act. However, the DEA did not go into details.

The authorities also stated that as a part of the regulatory review the DEA expects to include industrial use, i.e. uses other than district heating, as a part of future licences and permits. This would allow a geothermal producer to supply geothermal energy directly large industrial heat users.

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## Assessment and summary

WSCO was invited to and participated in the DEA's mini-seminar, where the authorities presented the background and contents of the proposed changes and the authorities' plans to bring forward the proposals over the next year.

Feedback from the relatively small crowd of participants in the seminar was mixed. Some believe the proposal for "sales contract first, licence second", made good sense. Others find that heating companies and municipalities are not sufficiently equipped to undertake the negotiations and awards of the contract before the licence is awarded.

Other points raised were that the new regime would make transfers between existing and new license holders more difficult, and that the current system works reasonably OK, except that processing times in the DEA and in the municipalities are prohibitive, something the "new system" would not solve.

The same applies to major roadblocks to geothermal energy such as artificially low prices for biomass and the "substitution principle" which means that municipalities must always acquire district heating at the lowest price, which again means that a geothermal developer has no security that the offtaker will stand by the contract in the event another source of energy suddenly becomes cheaper.

During discussions the DEA acknowledged that the current Subsoil Act does indeed allow the DEA to include criteria for the award of licenses other than the work programme, and the technical and financial capacity of applicants.

## Next steps

The DEA will now collect the feedback from the seminar and prepare a draft bill for public hearing during October-November. A bill could then be brought before the Danish parliament after February 2021, and – if the political will is there – a new regulatory framework could be in place by 1 July 2021, according to the DEA.

WSCO will continue to monitor and report on the development of the geothermal energy market in Denmark.

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For questions or comments to this newsletter or energy and offshore in general, please contact Bo Sandroos on +45 4088 5422 or [bos@wsco.dk](mailto:bos@wsco.dk).

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