4: The legal framework

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 (or licensee, as they are often called) 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 Licensing Act specifies that anyone who acquires ownership 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.

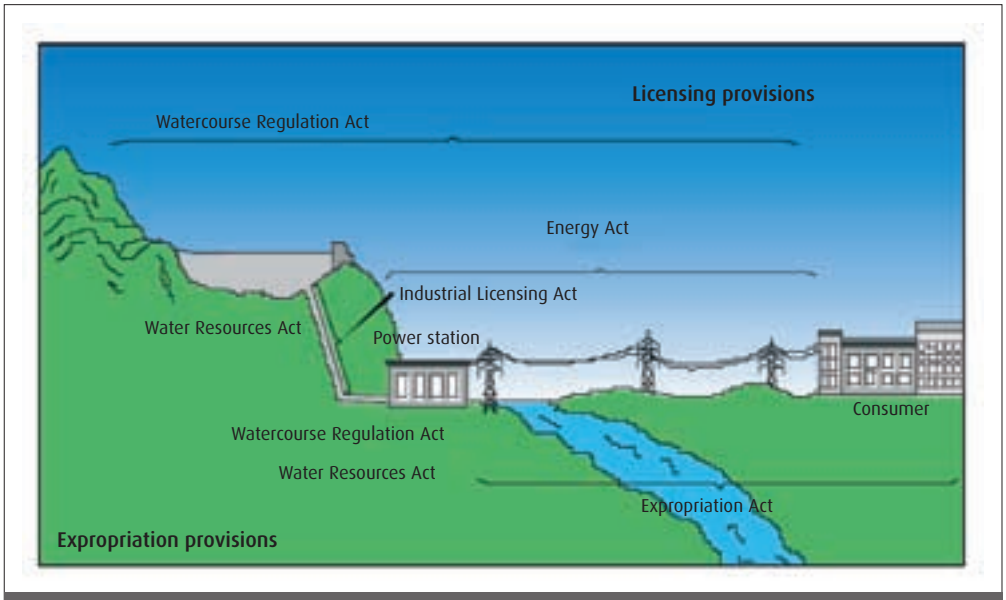


Figure 4.1 Legislation governing licensing in the hydropower sector

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 Master Plan for Water Resources, the Industrial Licensing Act, the Watercourse Regulation Act and the Water Resources Act. The water resource authorities are responsible for managing water resources within this framework.

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

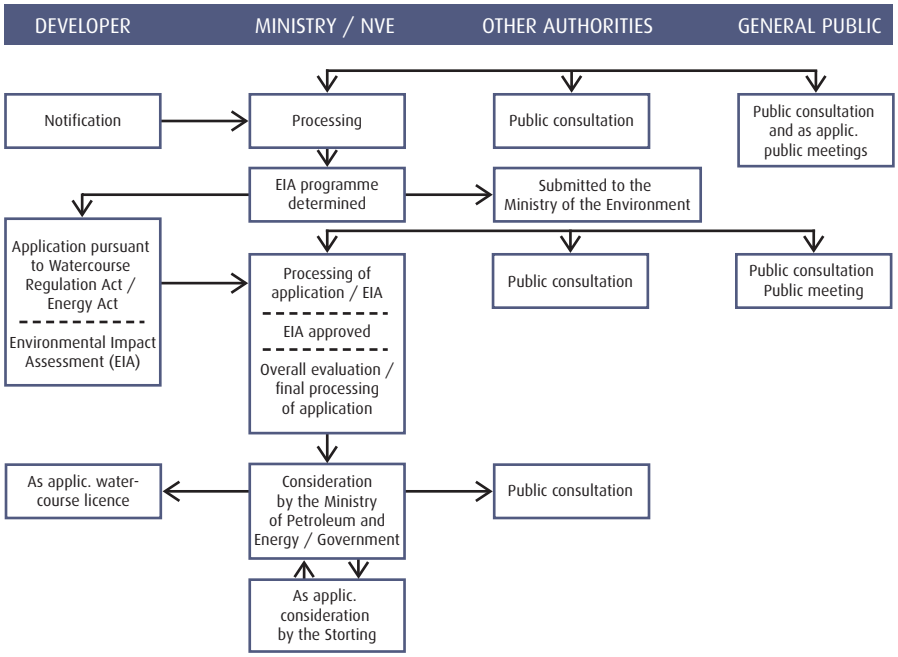
In cases where a license is required pursuant to the Industrial Licensing Act, the Watercourse Regulation Act or Water Resources Act, the NVE is responsible for coordinating application procedures. This is the case regardless of whether the licensing decision is to be made by the NVE or the King. Once a project has been approved in the Master Plan for Water Resources, the actual application process starts when the developer sends notification of the project to the NVE. This notification is released for public inspection and circulated to local authorities and organisations for comment.

The NVE, in consultation with the municipal authorities and other authorities concerned, 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 Regulations on Environmental Impact Assessment, an impact assessment is always required for all power stations larger than 40 GWh. Impact assessment is required for plants of more than 30 GWh if they are expected to have a significant impact on the environmental, nature or local community. 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, the NVE will determine the final content of the impact assessment programme after submitting this to the Ministry of the Environment. The authorities and organisations that received the application for comment are also sent a copy of the final assessment programme for informational purposes.

When the assessment 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. After this, the NVE 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 and municipal authorities involved, and the Ministry of Petroleum and Energy's own evaluation. The Government then makes a decision on development and regulation in the



Major projects or projects that will entail certain types of consequences always start with notification and an environmental impact assessment (EIA) pursuant to the Planning and Building Act. Applications that are not subject to the rules in the Planning and Building Act concerning notification and an environmental impact assessment start with an application pursuant to the Watercourse Regulation Act and application pursuant to the Energy Act regarding necessary licences for electrical installations linked to the power station, including power lines to connect to the existing power girds. If the application is being processed pursuant to the Watercourse Regulation Act, an environmental impact assessment is required in accordance with this. See figure 4.3 for processing of electrical installations.

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

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 stakeholders.

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 license power stations pursuant to the Water Resources Act to the NVE. This also contributes to faster processing of applications.

4.2.1 Protection plans and the Master Plan for Water Resources

Many watercourses are permanently protected against hydropower developments. The Storting adopted four protection plans between 1973 and 1993, and a supplement in

February 2005. Together they are referred to as the Protection Plan for Watercourses. This Plan contains binding instructions to the authorities not to license regulation or development of certain watercourses for the purpose of hydropower generation. When evaluating which watercourses to protect, importance has been attached to preserving a representative cross-section of Norwegian river systems. Any distinctive features and opportunities for outdoor recreation in and near the watercourses are also important considerations. A total hydropower potential of about 45.5 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 also lays down provisions for their protection from types of development other than hydropower projects.

The Master 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 immediately, as can certain projects exempted from the Master Plan. Projects in category II and projects not covered by the Master 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. Basically, the aim is to ensure that the rivers that can provide the cheapest power with the smallest environmental impact are developed first. However, approval of a project in the Master Plan does not mean that the authorities have made an advance commitment to grant a licence. The licensing authorities have 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 Master Plan, should not be considered for licensing at the present time. In connection with the Storting's consideration of the Proposition no. 75 (2003–2004) to the Storting on a Supplement to the Master Plan for Water Resources, it was decided that hydropower projects with a planned reservoir installation of less than 10 MW would be exempt from processing under the Master Plan. In light of the fact that most of the major developments have already been carried out, this exemption will have a major impact.

Since the Storting considered the Master Plan in 1993, the framework for hydropower development has altered in a number of ways. Most projects notified today are technically, environmentally and financially different to those originally presented in the Master Plan. The Government is therefore planning to revise the Master Plan.

4.2.2 The Industrial Licensing Act

In order to use 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 to a waterfall by others than the State requires a licence pursuant to the Industrial Licensing Act if it is assumed that the waterfall can provide an output exceeding 4,000 natural horsepower (2,944 kW) after regulation. This threshold is sufficiently high to ensure that small power stations without a regulation system are not encompassed by the Act.

When the Act was passed in 1917, it was framed in a way that 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 State 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.

Norway was brought before the EFTA Court by the EFTA Surveillance Authority (ESA) in 2006. In its decision from 2007 the Court found that the previous scheme infringed the EEA Agreement. The decision nevertheless allowed for the possibility of state ownership of water resources as a goal in itself, but in this case, the legislation would have to be made consistent in relation to this objective. The EFTA Court identified four aspects of the existing scheme that had to be rectified.

In spring 2008 the Government presented Proposition no. 61 (2007–2008) to the Odelsting, which implemented the ruling of the EFTA Court. It was proposed that it should be codified in legislation that Norway's hydropower resources belong to the general public and must be administered to the public's best interest. This is to be achieved by an ownership structure based on the principle of public ownership on the central, county and municipal levels. The changes related to the four aspects raised by the EFTA Court entail:

- New licences for acquiring title to waterfalls may be granted only to public-sector owners.
- Acquisition of reverted waterfalls and power plants is restricted to public-sector operators.
- The right to a renewed licence for private entities in the event of sale-back/lease after a reversion right has been exercised lapses.
- The sale of more than one third of publicly owned waterfalls and power plants to private entities is prohibited.

It was proposed that the system of private owners being allowed to own up to one third of public-sector companies be continued. The current licences of limited duration that revert to the State on expiry will run normally until the reversion date. The last major reversion will occur in 2057. It was proposed that the system of conversion be established by law. This means that private owners of a power station subject to reversion and licences of limited duration can sell the power plant to or merge the power plant with public-sector owners, as long as the private stake in the jointly owned company does not exceed one third. In the event of conversion, the public-sector ownership will be forced, because conversion must take place before the date for reversion.

The majority of the Standing Committee on Energy and the Environment endorsed the Government's proposal in Recommendation no. 78 (2007–2008) to the Odelsting. The amendments entered into force on 25 September 2008.

The Industrial Licensing Act includes mandatory terms relating to licence fees and the obligatory sale of power to the municipalities in which the waterfalls are situated. These entitle the municipal authority, alternatively the county authority, to buy 10 per cent of the power generated at cost (se also Section 4.5). 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.

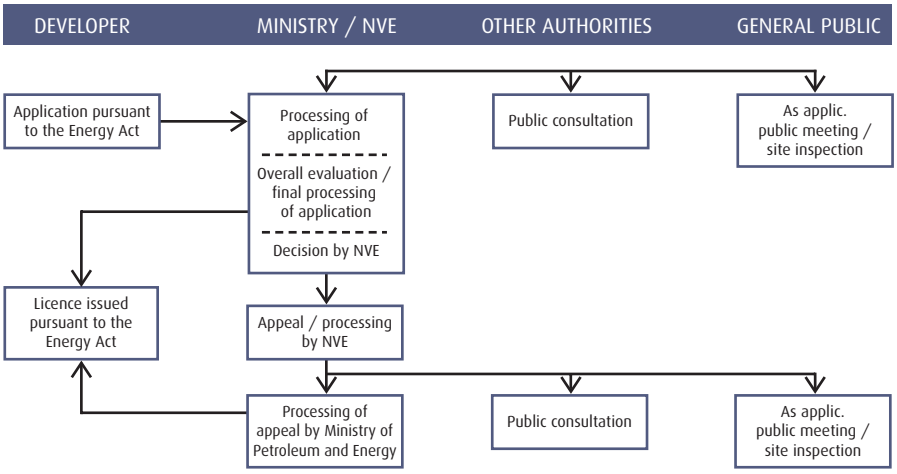
The Act includes regulatory measures that even out fluctuations in water flow in a river during the year. As a general rule, it provides the authority to prescribe similar conditions to those authorised by the Industrial Licensing Act. Additional special terms may be imposed to reduce the damage caused 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 that 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 municipal authority) or others representing the public interests have demanded revision of the conditions in a licence. This procedure primarily provides opportunities to specify new conditions to mitigate environmental damage that 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 the central government and to the municipal 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 (see also Section 4.5). In addition, the creation of a business development fund for the municipality is generally required. Such funds are intended partly to compensate for any adverse effects, and partly to ensure that the municipality enjoys a share of the economic benefits of hydropower development. Establishment of a business development fund may also be required pursuant to the Industrial Licensing 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 require a separate licence pursuant to the Water Resources Act. The Water Resources Act is a general law that 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 groundwater 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 discussed in more detail in Chapter 10.

Some micro and mini power stations have such negligible impact that they do not need a licence. However, it can be very difficult to assess impacts without special expertise in



This figure shows the administrative procedures for licensing projects that come under the Energy Act and the main differences from procedures pursuant to the water resources legislation (see 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.)

watercourses. For this reason, a developer ought to have his licensing needs assessed by the NVE before commencing work on the development. The processes linked to this are discussed in more detail in Section 2.2.6.

4.3 The Energy Act

The Energy Act of 29 June 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 allow customers to freely choose their power supplier. Through different licence schemes, the Act regulates: 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 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, normally the NVE. If the application is covered by the Planning and Building Act chapter VII-a, an impact assessment 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 for projects licensed under the Energy Act as for those licensed under legislation relating to water resources (see figure 4.3).

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. In these cases, the NVE evaluates the consequences in connection with its processing of the application. The 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 requiring matters of principle and appeals to be submitted to the Storting.

If a licensing decision made by the NVE 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 take 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 construction of lines and electricity distribution installations carrying a voltage of 22 kV or less. A party that 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

In connection with 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 interests of the general public and private individuals with regard to the interventions in the

landscape and the environment, for instance.

A number of conditions can be stipulated in the licences. The conditions are as stated in in Section 3-4 of the Energy Act, and the appurtenant regulations. They include a requirement for the installation to contribute to rational energy supply, 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 heritage sites, stipulations relating to the organisation and expertise of a company granted a licence, and other conditions as and if 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 Section 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 that trades electricity or that may be involved in monopoly operations must hold a trading licence. Only the State may trade electricity without a licence. Trading licences 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 consumption in a specific area, and others that own a distribution or transmission grid. In addition, this covers pure trading companies that buy power from producers or over the power market and then sell it. 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 trading licence system provides the authority to regulate grid management and operation, which form a natural monopoly. Prices charged by 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 that 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. In connection with the amendments to the legislation in 2006, company and function division was required for vertically integrated companies that have been given responsibility for the system or that have over 100,000 grid customers. 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 described in more detail 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 municipal authority to impose compulsory connection to the district heating system on relevant 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 that 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 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 possible to appeal to the NVE regarding prices and other conditions.

4.3.8 Responsibility 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 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. In the regulations issued pursuant to the Energy Act, the Ministry has provided more detailed regulations on system operator responsibility. The The NVE has published special regulations on transmission system operator responsibilities in the electricity supply system. For further information on Statnett SF, see Section 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 the 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 supply system were approved in autumn 2004 and came into effect on 1 January 2005.

4.3.9 Energy planning

One chapter of the Energy Act deals with energy planning. Pursuant to the Energy Act, energy planning shall ensure the evaluation of different solutions for developing a rational energy supply system in social terms. Anyone who has a licence pursuant to the Act to operate electrical or district heating facilities is obligated to take part in energy planning. The NVE has issued regulations on energy reports. According to the regulations, all distribution companies are to provide an energy report for each municipality within their distribution area. This report must be updated each year. The energy report 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 municipality in which the most significant changes in energy demand are expected. The distribution companies should also hold a public meeting each year with the municipal authority and interested energy players where the energy study is presented and discussed. The first energy reports were carried out in 2004.

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 that confer the authority to implement any contingency measures necessary to protect installations against

damage from natural conditions, 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 (KBO). 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 times of war.

The 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, and if rationing is introduced. The NVE has published special regulations on contingency planning in the power system.

4.4 Other legislation

4.4.1 The Planning and Building Act

The Planning and Building Act applies to a large extent parallel to 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 relating to an environmental impact assessment (EIA) apply to all projects pursuant to the energy and water resources legislation. Briefly, these provisions make an EIA mandatory for all major projects, and for smaller projects that satisfy certain criteria.

On 5 June 2008, the Storting approved a new planning part of the Planning and Building Act, but the amended Act has not yet come into force. The Act introduces a number of new provisions that will affect energy projects. Only the sections on impact assessments and the requirements concerning a set of basic map data and geodata apply to central and regional grid systems. Otherwise, these activities are exempted from the Act. According to the Act, facilities that generate electricity do not need to prepare a zoning plan. To ensure that these production facilities can be established in cases where the municipal authorities have not not facilitated the development by approving a zoning plan, plan amendments or by dispensation, a provision has been included allowing the Ministry of Petroleum and Energy to rule that a granted licence can be given the same effect as a central-government zoning plan. This Act will come into force on the date decided by the King, and will probably come into force at the same time as the new building part of the Act, which is also being revised.

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 2004 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. When applying this Act, consumer interests must be taken into special consideration.

Cooperation that 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 that 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 European gas market directive (98/30/EC) in Norwegian law has necessitated the creation of a legal framework for such operations in Norway. The Energy 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 n atural gas undertakings and qualified customers must be given access to natural gas transmission and distribution networks.

Chapter 2 of the natural gas regulations of 14 November 2003 no. 1342 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 chapter 2 of the natural gas regulation has now been delegated to the NVE.

The EU adopted a new gas market directive (2003/55/EC) on 26 June 2003 to replace the existing directive. The directive makes it necessary to change Norwegian regulations in the area, as specified in Section 9.1.1. A proposal for amendment to the Act was presented to the Storting in 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 the fact that the Norwegian downstream market is under development, in line with directive article 28 (2), and that the natural gas regulations were amended in 2007, in keeping with the exceptions allowed under article 28 (2). This entails exemption from most of the material provisions in the gas market directive until 2014.

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

4.4.4 User protection and power contracts

In Proposition no. 114 (2004–2005) to the Odelsting, the Ministry of Justice and the Police presented a number of changes to the Act no. 34 of 21 June 2002 on consumer purchases (the Consumer Purchase Act). The background for the changes was that in Proposition no. 44 (2001–2002) to the Odelsting on the Consumer Purchase Act, the Government signalled that it would be returning to issues relating to legislative regulation of consumer protection and electricity agreements.

The draft legislation was debated by the Storting in spring 2006 and primarily entails that the Consumer Purchase Act also applies to the transmission and supply of electric energy. This means that in principle consumers have the same protection with respect to electricity supply as for other services covered by the

Consumer Purchase Act. This means that the consumer, as specified in more detailed conditions, can exercise their payment withholding rights and can demand price reductions and compensation as a result of the distribution company's breach of contract. The amendments entail that application of the rules provided in the Consumer Purchase Act must be adapted to the special conditions of the goods that apply to the supply of electric energy. This includes the issue of distribution companies' liability in the event of failure to supply electricity. Legislation has also been introduced that 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 Electricity Appeal Board's[1] activities.

4.4.5 The Pollution Control Act

The Act of 13 March 1981 relating to protection against pollution and relating to waste (Pollution Control Act) applies to most pollution sources, including those within the energy and water resources sector.

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

The general rule is that polluting activities must have a licence from the pollution control authorities.

The Pollution Control Act is administered

1 The Electricity Appeal Board handles disputes between energy companies and consumers. The Board was established in accordance with an agreement between the Norwegian Electricity Industry Association (EBL) and the Norwegian Consumer Council, and has been in operation since 1991. The Board consists of a chairman who acts as judge and two members appointed by each of the two parties. The members are appointed for one year at a time. The service is provided free of charge to consumers. See http://forbrukerportalen.no/Organisasjoner/elklagenemnda

by the Ministry of the Environment. An application for a discharge permit for industrial activities etc. should be sent to the Norwegian Pollution Control Authority (SFT) or to the County Department of Environmental Affairs for activities where the County Governor is the pollution control authority.

Energy and watercourse developments may require a permit under the Pollution Control 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, and permission to discharge pollutants is included in the licence granted pursuant to the Watercourse Regulation Act. For smaller developments, procedures have been developed for coordination of permits. For example, the Water Resources Act allows a permit in accordance with the Water Resources Act to take the place of a permit issued in accordance with the Pollution Control Act and vice versa.

4.4.6 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.