

Consolidation of the Act on Electricity Supplyⁱ

The Act on Electricity Supply is hereby proclaimed (cf. Consolidated Act no. 151 of 10 March 2003, and the amendments resulting from § 1 of Act no. 452 of 10 June 2003, § 7 of Act no. 458 of 10 June 2003, § 2 of Act no. 1232 of 27 December 2003, § 1 of Act no. 494 of 9 June 2004, § 1 of Act no. 495 of 9 June 2004 and § 30 of Act no. 1384 of 20 December 2004).

Chapter 1

Introductory Provisions

§ 1. The objective of the Act is to ensure that the electricity supply of the country is organised and implemented in accordance with consideration for supply security, the national economy, the environment and consumer protection. The Act shall therefore ensure consumer access to inexpensive electricity and continue to allow consumers to exercise influence over the administration of the electricity sector's assets.

Paragraph 2. In accordance with the objectives specified in paragraph 1, the Act shall in particular promote sustainable energy use, including energy saving and use of CHP (co-generated heat and power), renewable and environmentally friendly energy sources, shall ensure efficient use of financial resources and foster competition on the markets for electricity production and trade.

§ 2. The Act applies to electricity production, transport, trade and supply.

Paragraph 2. The Act applies on land, in territorial waters and in the exclusive economic zone.

Paragraph 3. The Act does not apply to activities regulated according to Act no. 292 of 10 June 1981 on certain offshore installations.

Paragraph 4. The Minister of Transport and Energy may decide that small installations or small-scale activities that are covered by the Act may be either partially or wholly exempted from the Act's provisions.

§ 2 a. The Minister of Transport and Energy may set rules with a view to the fulfilment of Denmark's EU obligations.

§ 3. By means of the drafting of a yearly report, the Minister of Transport and Energy keeps a parliamentary committee informed of all significant developments concerning Denmark's electricity supply.

§ 4. Municipalities may be involved in grid activity and in the production of electricity from waste incineration. Municipalities and counties may participate in any other activity covered by § 2, paragraph 1, when a limited-liability company carries out such activity.

Paragraph 2. Municipalities may participate in other activities associated with the activities covered by the Act (cf. § 2, paragraph 1). Independent, limited-liability companies shall carry out such activity on commercial terms.

Paragraph 3. The Minister of Transport and Energy may set rules on the activities referred to in paragraph 2, including the activities that may be carried out according to § 2 as well as on the accounting and commercial relationships.

Paragraph 4. The provisions of the Act that apply to grid- and electricity enterprises shall apply only to those of a municipality's tasks that are part of grid activities or electricity-producing activities pursuant to in paragraph 1, point 1.

§ 5. The following definitions apply in this Act:

- 1) *Decentralised CHP plant:* CHP plant not located at centralised power-generating sites (cf. § 10, paragraph 6);
- 2) *Direct electricity-supply grid:* an electricity-supply grid the purpose of which is the supply of electricity from one electricity-producing enterprise to another electricity-producing enterprise or to specific consumers and which either wholly or partially replaces use of the collective electricity-supply grid;
- 3) *Distribution grid:* a collective electricity-supply grid the purpose of which is to supply electricity to an unspecified group of consumers, including grids owned by a collective electricity-supply enterprise the purpose of which is to connect a consumer directly to the transmission grid;
- 4) *Electricity-trading enterprise:* an enterprise that sells electricity, including enterprises licensed to carry out universal-service activities;
- 5) *Utility-owned installation:* an installation owned by an enterprise licensed to make provisions in accordance with § 9 of the Act on Electricity Supply hitherto in force;
- 6) *Consumption site:* site from which electricity is purchased for a single property-title number or for connected buildings having various property-title numbers but with only one electricity consumer;
- 7) *Enterprise with a universal-service obligation:* a licensed enterprise obliged to supply electricity to consumers who do not avail themselves of the possibility to choose another supplier;
- 8) *Collective electricity-supply enterprise:* a licensed public or privately owned electricity-supply enterprise or electricity-supply enterprise operated by Energinet Danmark or one of the latter's wholly-owned subsidiaries pursuant to § 2, paragraphs 2 and 3 of the Act on Energinet Danmark, the purpose of which is to carry out, according to publicly regulated conditions, grid or transmission activities or system-operating activities;
- 9) *Collective electricity-supply grid:* transmission and distribution grid the purpose of which is to transport electricity, according to publicly regulated conditions, for an unspecified group of electricity suppliers and consumers;
- 10) *MW:* unit of measurement of electrical power;
- 11) *Grid enterprise:* an enterprise licensed to operate a distribution grid;
- 12) *Interconnected electricity-supply system:* collective electricity-supply grids with associated installations in a large area that are interconnected for the purposes of joint operation;
- 13) *System operator:* an enterprise having the overall responsibility for maintaining supply security and efficient use of an interconnected electricity-supply system;

- 14) *Transit*: transport of electricity with a view to fulfilling agreements on electricity trading in situations in which none of the parties to the agreements purchases or produces the electricity concerned in Denmark;
- 15) *Transmission grid*: a collective electricity-supply grid the purpose of which is to transport electricity from production sites to a central point in the distribution grid or to connect it to other, interconnected electricity-supply grids;
- 16) *Transmission enterprise*: a licensed enterprise or electricity-supply enterprise operated by Energinet Danmark or by the latter's wholly-owned subsidiaries pursuant to § 2, paragraphs 2 and 3 of the Act on Energinet Danmark and which operates a transmission grid;
- 17) *RES certificate*: a tradable certificate for production of specified types of renewable-energy electricity.

Chapter 2

Electricity Consumers' Position

§ 6. All electricity consumers may freely choose electricity supplier.

Paragraph 2. All persons in Denmark have the right to pay for and be supplied with electricity by means of a supply offer from an enterprise with a universal-service obligation (cf. § 34).

Paragraph 3. Consumers availing themselves of the right to choose supplier (cf. paragraph 1) may resume supply from the enterprise with a universal-service obligation within a reasonable period and at prices set in accordance with § 72.

Paragraph 4. as far as the universal-service obligations of collective electricity-supply enterprises and enterprises with a universal-service obligation are concerned, such enterprises shall make their services available to consumers on transparent, objective, equitable and non-discriminatory terms.

§ 6 a. The Minister of Transport and Energy sets rules with a view to obliging electricity suppliers to ensure various basic consumer rights in connection with agreements on electricity supply, including specific rules on the nature of this obligation.

Paragraph 2. The rules referred to in paragraph 1 may cover provisions on the following:

- 1) requirements concerning consumer's right to a contract, concerning the contents of the contract, information on the contract's terms, prior notification of changes to prices and terms, including increases in charges, concerning consumers' right to cancel contracts, payment methods, payment for change of supplier and cancellation/discontinuation, including in connection with consumer default.
- 2) complaint procedures, including rules on the settlement of disputes between a consumer and a supplier on the conditions set pursuant to point 1.

Paragraph 3. When the rules referred to in paragraphs 1 and 2 are set, it may be decided that these rules apply only to certain types of agreements, including agreements with non-commercial consumers, and that no agreement may be made to deviate from these rules.

§ 7. (Repealed)

§ 8. Every electricity consumer in Denmark shall bear a relative proportion of the collective electricity-supply enterprises' necessary costs incurred in carrying out the latter's public service

obligations (cf. paragraphs 3 and 4). The foregoing does not, however, apply to the extent that what is specified in §§ 8 and 9 applies.

Paragraph 2. Every electricity consumer in Denmark shall acquire RES certificates, according to the rules set down in Chapter 9, as of the date set by the Minister of Transport and Energy as referred to in § 61.

Paragraph 3. All electricity consumers in Denmark shall also pay, based on total consumption, a relative proportion of the necessary costs incurred by the system operator for the services referred to in provisions §§ 56-57 b and § 59 a, paragraph 1, point 1.

Paragraph 4. Costs arising from the services specified below are calculated by the system operator for each of the two areas for which the latter has been licensed according to the § 27 hitherto in force and are covered by all electricity consumers in the respective areas:

- 1) the system operator's necessary costs arising from the services specified in the provisions in § 27 a, paragraph 1, point 2, §§ 28 a, 29, 30 and 58-58 b and § 59 a, paragraph 1, point 2 and paragraph 2;
- 2) grid enterprises' necessary costs arising from the services which they are obliged to provide according to § 22, paragraph 6, and §§ 67 and 68;
- 3) as determined by the Minister of Transport and Energy, costs arising from the establishment of offshore electricity-producing installations (cf. § 17, paragraph 6);
- 4) transmission enterprises' necessary costs arising from the tasks that they are obliged to carry out according to § 68.

Paragraph 5. The collective electricity-supply enterprises' further costs are at the expense of the users that benefit from the enterprises' services and are covered by the individual enterprise's tariffs (cf. paragraph 7).

Paragraph 6. The collective electricity-supply enterprises' administrative costs arising from payment for the services specified in paragraphs 3 and 4 are covered by the individual enterprise's tariffs (cf. paragraph 7).

Paragraph 7. The costs referred to in paragraphs 5 and 6 are calculated for the system operator for each of the two areas for which it has been licensed according to the § 27 hitherto in force and are covered by the users receiving the operator's services in the respective areas.

§ 8 a. The Minister of Transport and Energy may set rules specifying that electricity consumers who wholly or partially autoproduct the electricity they use shall, according to specific conditions, be obliged to pay only the settlement price referred to in §§ 56-58 b in proportion to the consumption of electricity purchased from the collective electricity-supply grid. The Minister may stipulate that the rules apply only for installations in operation on 12 April 2000.

Paragraph 2. After consulting the committee referred to in § 3, the Minister of Transport and Energy may set rules on payment to autoproductors of the settlement price referred to in §§ 58 and 58 a. In this regard, the Minister may set rules specifying the procedures for the calculation of the basic amounts and settlement prices for installations covered by § 58 as well as rules specifying the conditions for benefiting from price settlements for installations covered by § 58 a.

Paragraph 3. The Minister of Transport and Energy may set rules on the procedures for metering and calculating electricity consumption and production. Metering costs are at the electricity producer's expense.

§ 9. Costs incurred by grid enterprises and by the system operator for services provided pursuant to the provisions in §§ 56-57 b and § 59 a, paragraph 1, point 1, are charged to electricity consumers according to the following principles:

- 1) for an annual electricity consumption of 100 GWh or less per consumption site, a proportional amount of the total costs incurred by grid enterprises and the system operator for the provision of the services referred to in the principles laid out in § 8, paragraph 3, including a proportional amount of the costs arising from the services which cannot be covered according to the provision in point 2;
- 2) for electricity consumption exceeding 100 GWh per consumption site, no amount is charged to cover costs incurred by grid enterprises and the system operator for the services specified.

Chapter 3

Electricity Production

§ 10. Only enterprises that have been licensed by the Minister of Transport and Energy may produce electricity at installations with a capacity of more than 25 MW. In certain cases, however, the Minister of Transport and Energy may allow an electricity-producing installation with a capacity of more than 25 MW to be operated provisionally without a license.

Paragraph 2. The license referred to in paragraph 1 is granted for at least twenty years.

Paragraph 3. Licenses may be granted only to applicants able to document that they have the necessary technical and financial resources.

Paragraph 4. For electricity-producing enterprises that, when the Act enters force, have already been licensed to produce electricity, the license referred to in paragraph 1 is given on the condition that the enterprises concerned comply with requirements made of environmentally friendly electricity-producing installations that the enterprises operate pursuant to § 13 of the Act on Electricity Supply hitherto in force.

Paragraph 5. The Minister of Transport and Energy may grant dispensation from the license conditions referred to in paragraph 4 if so doing is considered necessary in order for an electricity-producing enterprise to continue to operate in a financially sound manner.

Paragraph 6. The Minister of Transport and Energy may set rules specifying which CHP plant sites are designated as central CHP plant sites (cf. § 5).

§ 11. New electricity production plants may be established and significant alterations to existing plants may be made only if the Minister of Transport and Energy has previously issued a permit in this regard.

Paragraph 2. Permits are only issued if applicants are able to document that they fulfil specific, published conditions concerning an installation's energy efficiency, fuel use and environmental impact.

Paragraph 3. The Minister of Transport and Energy sets rules on the conditions and procedures for the issuing of permits, including that particular permits may be of fixed duration.

Paragraph 4. Nuclear-production installations may not be established pursuant to this Act.

§ 12. A permit as referred to in § 11 or a license as referred to in § 10 may contain conditions requiring that the owner:

- 1) commits to modifying production volume as decided by the system operator if the latter determines that so doing is necessary in order to maintain efficient use of the grid, supply security or quality in the interconnected supply grid;
- 2) provides security for the dismantling of installations;
- 3) assumes, as far as CHP plants are concerned, a universal-service obligation for district heating in a specific supply area; and
- 4) commits to inform the system operator at least one year in advance if it decides to shut down an installation or take it out of operation with the result that it is not available for a lengthy period.

§ 12 a. Electricity production from the incineration of meat- and bone meal or similar products may only take place if the Minister of Transport and Energy has previously issued a permit in this regard (cf. paragraph 4).

Paragraph 2. The Minister of Transport and Energy may set conditions for the permit, including conditions on its duration.

Paragraph 3. Electricity production as referred to in paragraph 1 is not covered by the rules in § 27 c, paragraph 5, §§ 48 and 56-58 and § 75, paragraph 3.

Paragraph 4. Paragraphs 1-3 do not apply to electricity produced at installations producing electricity exclusively from waste incineration.

Offshore Electricity-Producing Installations

§ 13. Only the Danish State may exploit energy from wind and water in Danish territorial waters and in the exclusive economic zone.

Paragraph 2. Preliminary studies and the use of the energy covered by paragraph 1 may only take place if the Minister of Transport and Energy has previously issued a permit in this regard.

Paragraph 3. Permits are issued for specific areas and may be issued separately for preliminary studies and energy use.

Paragraph 4. The Minister of Transport and Energy may set conditions for the permits, including regarding reporting on the progress and findings of preliminary studies, as well as on compliance with safety requirements, etc.

Paragraph 5. The Minister of Transport and Energy may set rules or make decisions on the permits according to this provision, including on payment for processing applications and on permit duration.

§ 14. The permits referred to in § 13 are issued on the basis of a decision made by the Minister of Transport and Energy or following a public call for applications in connection with an invitation to tender pursuant to rules set by the Minister of Transport and Energy or following publication of a received application in cases in which other interested parties are invited to apply.

§ 15. In connection with the invitations to tender referred to in § 14, the Minister of Transport and Energy may set particular conditions or terms which he/she will take into consideration when considering the tenders received.

Paragraph 2. The terms referred to in paragraph 1 may concern the production installation or the infrastructure which is to connect the installation to the interconnected electricity-supply system or a requirement that consumers or others be able to participate as parties in the project with the applicant.

§ 16. The establishment of electricity-producing installations that exploit wind and water, with associated internal cable systems in Danish territorial waters and in the exclusive economic zone, and significant modifications to existing installations, may be undertaken only if the Minister of Transport and Energy has issued the relevant permits. Permits are issued to applicants considered to have the necessary technical and financial resources.

Paragraph 2. The Minister of Transport and Energy may set conditions for the approval of certain installations, including requirements regarding construction, layout, systems, set-up, operation, dismantling and the providing of security for installation dismantling, as well as technical and safety conditions in connection with establishment and operation. The Minister may set specific rules in this regard.

Paragraph 3. Electricity-producing installations as referred to in paragraph 1 that are anchored at the same location in Danish territorial waters are considered for registration purposes as real property. The registration of rights concerning such installations is done at the Århus Court according to the rules of the Act on Registration, § 19, paragraph 1, point 2.

§ 17. Permits to establish installations as referred to in § 16 which may be considered as having significant environmental impact may be issued only on the basis of assessment of the environmental consequences and after the public at large and the authorities and organisations concerned have had an opportunity to express their opinions.

Paragraph 2. The Minister of Transport and Energy may set specific rules on the definition of installations covered by paragraph 1.

Paragraph 3. The Minister of Transport and Energy may set specific rules concerning the information and studies necessary for assessment of the environmental impact. The Minister of Transport and Energy may decide that the environmental impact of installations covered by § 16 shall be assessed during and after establishment. The Minister of Transport and Energy may decide that independent experts shall assess the environmental impact of the installations covered by § 16.

Paragraph 4. The Minister of Transport and Energy may set specific rules on the providing of information to, and consultation of, the public at large and the organisations and authorities concerned in connection with

- 1) the assessments referred to in paragraph 1;
- 2) the definition referred to in paragraph 2, as well as associated decisions; and
- 3) applications for permits according to § 16.

Paragraph 5. Costs arising from the activities covered by paragraphs 1-4 are at the expense of the party applying for a permit to establish an electricity-producing installation (cf. § 16).

Paragraph 6. The Minister of Transport and Energy may, however, decide that the costs referred to in paragraph 5 arising from activities significant to future projects may be covered as referred to in § 9, paragraph 1.

§ 18. Installations established in accordance with the requirements set according to § 13 of the Act on Electricity Supply hitherto in force and installations for which a provisional or definitive permit has been issued according to the Act on Electricity Supply hitherto in force are exempted from the provisions concerning invitations to tender referred to in §§ 14 and 15.

Electricity-Supply Grid

The Collective Electricity-Supply Grid: Transmission and Grid Licenses

§ 19. Transmission and grid activity may be carried out only under licenses granted to enterprises that fulfil the requirements in Chapters 7 and 8. Transmission activity carried out by Energinet Danmark or its wholly-owned subsidiaries pursuant to § 2, paragraphs 2 and 3, of the Act on Energinet Danmark does not require licenses.

Paragraph 2. The Minister of Transport and Energy issues the license, which is granted for at least 20 years, for a specifically defined area.

§ 20. Transmission and grid enterprises shall ensure sufficient and efficient transport of electricity as well as the associated services, and shall:

- 1) maintain, convert and develop the supply grid in the supply area to the extent necessary;
- 2) connect electricity suppliers and purchasers to the collective electricity-supply grid;
- 3) make available the necessary transport capacity and provide access to transport of electricity in the electricity- supply grid;
- 4) meter the supply and purchase of electricity in the grid.

Paragraph 2. If a transmission or grid enterprise does not fulfil the obligations referred to in paragraph 1, the Minister of Transport and Energy may order the system operator to rectify this situation, including carrying out necessary works on the collective electricity-supply grid.

Paragraph 3. The system operator may, when duly warranted for the carrying out of the necessary works referred to in paragraph 2, gain access to a transmission or grid enterprise's premises.

Paragraph 4. The police shall provide assistance in the exercise of the powers referred to in paragraph 3.

§ 20 a. Transmission and grid enterprises shall set up a program for internal monitoring that describes the enterprises' initiatives to prevent discriminating behaviour. The enterprises shall ensure compliance with the internal monitoring program and that appropriate control is exercised. An annual report describing the program and its supervision shall be published and submitted to the Energy Regulatory Authority.

Paragraph 2. The Minister of Transport and Energy may set specific rules on the conditions referred to in paragraph 1, including on the contents of the program for internal monitoring and the manner in which it is supervised.

§ 21. New transmission grids designed for voltages of over 100 kV may be established and significant modifications may be made to similar, existing grids only after the Minister of Transport and Energy has issued the relevant permits. This does not apply to activity carried out by Energinet Danmark or its wholly-own subsidiaries, pursuant to § 2, paragraphs 2 and 3 of the Act on Energinet Danmark. Permits are issued on the condition that applicants are able to document that there is sufficient need for expansion, including that the expansion take place with a view to increased supply security, emergency situations, the establishment of effective, competitive markets and the inclusion of renewable energy or if the project for which application is being made is necessary for fulfilment of a requirement pursuant to § 21, paragraph 2. Permits may include conditions concerning specific establishment and operation of the grid, including the providing of security for installation dismantling.

Paragraph 2. The Minister of Transport and Energy may order parties licensed in accordance with § 19, paragraph 1, to cable the electricity-supply grid in connection with the establishment of new transmission grids designed for voltages over 400 kV or with significant modifications to similar existing grids. Additional costs incurred by such parties for this cabling are to be covered according to the rules pursuant to the Act on Energinet Danmark.

Paragraph 3. License holders shall, for a reasonable consideration, make the transmission grid available to the system operator to the extent that the latter considers this to be necessary for the fulfilment of its obligations.

Paragraph 4. License holders shall, however, make the transmission grid available free of charge to the system operator when this is necessary to enable it to comply with an order issued pursuant to § 20, paragraph 2.

§ 21 a. (Repealed)

§ 22. A grid enterprise shall:

- 1) maintain the grid's technical quality;
- 2) meter the electricity transported through its grid;
- 3) charge users in respect of the payment obligations established in this Act;
- 4) provide environmentally friendly electricity and carry out the other tasks referred to in the provisions in Chapter 9;
- 5) provide information so as to ensure the greatest possible transparency concerning market conditions for all consumer groups;
- 6) map energy consumption and plan and ensure implementation of energy saving in the supply area;
- 7) advise consumers in the supply area on energy use;
- 8) provide safety advice and information to consumers, installation engineers and other specialists working with electricity and assist the Danish Safety Technology Authority in the monitoring and inspection of power plants;
- 9) use transparent, non-discriminatory, market-based methods in the procurement of the energy used to carry out its activity;
- 10) inform consumers on their rights in relationship to the universal-service obligation; and
- 11) in connection with the planning of grid expansion, determine whether measures for energy efficiency by means of demand management or decentralised production could replace the need to expand capacity.

Paragraph 2. The grid enterprise shall co-operate with the system operator in the carrying out of the tasks referred to in paragraph 1.

Paragraph 3. The grid enterprise shall supply grid users with all necessary information on the metering of electricity transported through its grid.

Paragraph 4. The Minister of Transport and Energy may set rules on combined invoicing for the services consumers receive according to this Act.

Paragraph 5. The Minister of Transport and Energy may set rules on implementation of the provisions in paragraphs 1-3, including rules on definition of tasks, information on energy use and collection of payment. The Minister of Transport and Energy may also decide that specific conditions may be established for the planning referred to in paragraph 1, point 6, and for the providing of advice referred to in paragraph 1, point 7.

Paragraph 6. The Minister of Transport and Energy may decide that grid enterprises shall contribute to research into and development of efficient energy use. The Minister of Transport and Energy may set rules or decide on the drawing up of plans for these activities and on their approval.

Paragraph 7. In co-operation with transmission enterprises, grid enterprises shall prepare annual overviews and forecasts to be used by the market's current and future players and to demonstrate fulfilment of public service obligations.

Electricity-Supply Grids in Danish Territorial Waters, etc.

§ 22 a. New electricity supply grids may be established and significant modifications may be made to existing grids in Danish territorial waters and in the exclusive economic zone only after the Minister of Transport and Energy has issued the relevant permits.

Paragraph 2. Permits may be subject to conditions. The Minister of Transport and Energy may set further rules in this regard.

Direct Electricity-Supply Grids

§ 23. A direct electricity-supply grid may only be constructed after the Minister of Transport and Energy has issued the relevant permit.

Paragraph 2. A permit may only be issued if the applicant has previously been denied permission to transport electricity through the collective electricity-supply grid and it has not been possible to find a solution to the problem by submitting it to the Energy Regulatory Authority.

Paragraph 3. A permit may be subject to conditions as specified in § 21, paragraph 1. § 21, paragraph 3, shall apply *mutatis mutandis*.

Access to the Collective Electricity-Supply Grid

§ 24. Every person has the right, in return for payment, to make use of the collective electricity-supply grid for the transport of electricity.

Paragraph 2. Collective electricity-supply enterprises may not differentiate among system users or user categories or favour their own companies or owners.

Paragraph 3. With a view to ensuring full use of the collective electricity-supply grid's capacity, the Minister of Transport and Energy may set rules on the entering into of agreements on reserving grid capacity. The Minister of Transport and Energy may set specific rules stipulating that existing agreements on the reservation of grid capacity shall be administered so that full use of the collective electricity-supply grid's capacity is ensured.

§ 25. (Repealed)

§ 26. In order to be connected to the collective electricity-supply grid, installations must meet established technical requirements and standards.

Paragraph 2. In order to connect to and use the collective electricity-supply grid, users shall fulfil the requirements set in this regard (cf. paragraph 3).

Paragraph 3. The Minister of Transport and Energy may set specific rules on the conditions referred to in paragraphs 1 and 2 and may decide that certain technical standards and requirements for access to and use of the collective electricity-supply grid shall be set by the system operator.

Community Provisions on the Electricity-Supply Grid

§ 26 a. The provisions in § 20, § 21, paragraphs 2-4, § 23, paragraphs 2 and 3, and § 24 do not apply to conditions covered by Article 7 in European Parliament and Council Regulation (EEC) no. 1228/2003 of 26 June 2003 on conditions for grid access in connection with cross-border exchanges in electricity.

Paragraph 2. The Minister of Transport and Energy may set rules on the processing of an application for exemption according to Article 7 in the regulation referred to in paragraph 1.

Chapter 5

System Operator

§ 27. (Repealed)

§ 27 a. The system operator is responsible for supply security and shall, in order to fulfil this obligation:

- 1) maintain technical quality and balance in the interconnected electricity-supply system; and
- 2) ensure that there is sufficient production capacity in the interconnected electricity-supply system.

Paragraph 2. The system operator, in the fulfilment of its obligations as referred to in paragraph 1, may obtain all necessary information from grid users.

§ 27 b. Transmission installations made available to the system operator and electricity-producing installations with a capacity of more than 25 MW may not be taken out of operation for long periods without the system operator's approval. With reference to maintenance of supply security, the system operator may, in return for reasonable payment, require that previously approved planned outages be cancelled or postponed.

Paragraph 2. With reference to supply security (cf. § 27 a, paragraph 1), production enterprises shall, when so instructed by the system operator, inform the latter as to which installations with a capacity of more than 25 MW it intends to keep operational on a 24-hour basis for up to four weeks. At least one day prior to any given 24-hour period, production enterprises shall inform the system operator as to which production units with a capacity of more than 25 MW it plans to have operational during that 24-hour period.

Paragraph 3. If the system operator determines that there is insufficient certainty that supply security can be maintained with the installations expected to be kept operational as referred to in paragraph 2, it may require other electricity-producing installations to be kept operational so that the installations produce electricity as ordered by the system operator. Costs incurred with keeping an installation operational are at the system operator's expense.

§ 27 c. The system operator publishes, for the following 24-hour period, the information on the transfer capacity of the transmission grid made available to it.

Paragraph 2. Users of the collective electricity-supply grid shall, in accordance with rules set by the system operator and on the basis of the published information referred to in paragraph 1, inform the system operator of their plans for electricity production, consumption and trade for the following 24-

hour period. Electricity production covered by § 59 a, paragraph 1, is exempted from the obligation to inform.

Paragraph 3. Before the beginning of the next 24-hour period, the system operator shall approve the plans for expected electricity production, consumption and trade, as it has been informed according to paragraph 2. This approval may be conditional on modifications made necessary in order to ensure supply security.

Paragraph 4. Once it has approved the plans, the system operator may order the electricity-producing enterprises to modify the extent of production or to begin production if so doing is necessary in order to ensure supply security.

Paragraph 5. Electricity production from decentralised CHP plants and electricity-producing installations producing RES electricity or using waste as a fuel have priority access to the electricity-supply grid. The system operator may only reduce or interrupt prioritised electricity production by means of the modifications referred to in paragraphs 3 and 4 if reduction of electricity production from other installations is not sufficient to maintain technical quality and balance in the interconnected electricity-supply system.

Paragraph 6. The system operator shall pay for any modifications it orders as referred to in paragraphs 3-5. It shall not pay for such modifications, however, if it orders modifications to plans for electricity production, consumption and trade as referred to in paragraph 3 before the plans have been approved and if the modifications are necessary:

- 1) so as not to exceed the published transfer capacity referred to in paragraph 1; or
- 2) in order to balance the individual users' planned electricity production, consumption or trade.

Paragraph 7. In cases of imminent risk of grid collapse and during grid collapse and subsequent restoration, the system operator may order any necessary modifications to production, trade and consumption, with no payment due.

Paragraph 8. If a user's actual electricity production, consumption or trade in a given 24-hour period does not correspond to that approved according to paragraph 3, the system operator may require reasonable payment for the imbalance caused to the system. This does not, however, apply to electricity production from wind turbines covered by §§ 56 a and 56 b, to RES electricity-producing installations covered by § 57, to decentralised CHP plants or to electricity-producing waste-incineration installations covered by § 58 a.

Paragraph 9. The modifications referred to in paragraphs 3-5 shall be made according to objective criteria established by the system operator on the basis of cost-effective and environmental considerations. The system operator sets further objective criteria for the calculation of payment for reduction or suspension as referred to in paragraph 5.

Paragraph 10. The rules and criteria set by the system operator pursuant to paragraphs 2 and 9 shall be available to users and potential users of the collective electricity-supply grid.

Paragraph 11. After consulting the relevant parties, the system operator shall inform the Energy Regulatory Authority of the rules and criteria it sets pursuant to paragraphs 2 and 9. The Energy Regulatory Authority may order modifications to these rules and criteria (cf. § 77).

§ 27 d. The Minister of Transport and Energy may set specific rules on the conditions referred to in §§ 27 a, 27 b and 27 c.

Paragraph 2. The Minister of Transport and Energy may set rules specifying that the system operator shall implement further measures if such measures are considered necessary in order to maintain sufficient supply security. In this regard, the Minister may set rules specifying that the measures shall be implemented after an invitation to tender or other transparent and non-discriminatory procedure.

Paragraph 3. The Minister of Transport and Energy shall approve the system operator's implementation of the measures referred to in paragraph 2.

§ 27 e. Costs incurred by the system operator for maintenance of the production capacity referred to in § 27 a, paragraph 1, point 2, during the period between 1 January 2000 and 31 December 2003, are included in its prices as the same annual amount for the ten-year period between 1 January 2000 and 31 December 2010.

§ 28. In co-operation with the other collective electricity-supply enterprises, the system operator shall ensure that public service obligations (cf. § 9) are fulfilled.

Paragraph 2. The system operator shall carry out the following tasks:

- 1) ensure that any research- and development activities necessary for future environmentally friendly and energy-efficient transmission and distribution of electricity are carried out;
- 2) prepare annual overviews and forecasts to be used by the market's current and future players and to illustrate fulfilment of public service obligations;
- 3) co-operate with system operators in other countries to establish mutual, equivalent principles for electricity supply and grid tariffs, grid access and transit, market issues, etc., co-ordination of transmission connections (including the handling of balance and capacity problems) and enter into any joint, system-operation agreements necessary in order to ensure that the benefits yielded by interconnected systems are exploited;
- 4) distribute the costs of environmentally friendly electricity and fulfil carry out other tasks according to the provisions in Chapter 9;
- 5) co-operate with grid enterprises to ensure grid and transit access;
- 6) ensure users equal access to information on access to the purchase and sale of electricity;
- 7) prepare a plan for future transmission-capacity demand in the interconnected electricity-supply system and for transmission links to other grids;
- 8) co-operate with transmission enterprises to ensure any necessary conversion and expansion of the transmission grid in accordance with transmission-grid planning (cf. point 7);
- 9) submit an annual environmental report to the Minister of Transport and Energy which gives an account of the main environmental factors as regards electricity and CHP production in the overall electricity-supply system;
- 10) draft rules governing grid enterprises' metering;
- 11) calculate and implement the necessary settlement of accounts and collect payments due in respect of the fulfilment of public service obligations (cf. § 9);
- 12) ensure, when so directed by the Minister of Transport and Energy, continuation of activities requiring a license if any such license is withdrawn pursuant to § 54, paragraphs 1 or 4 (cf. § 54, paragraph 6);
- 13) use transparent, non-discriminatory, market-based methods to procure the energy it uses to carry out its activities.

Paragraph 3. The Minister of Transport and Energy may set specific rules on the contents and execution of the tasks for which a system operator is responsible.

§ 28 a. The system operator shall cover any additional costs incurred by an enterprise with a universal-service obligation in connection with the supply of electricity to electricity consumers connected to an isolated collective electricity-supply grid, in relationship to the price the enterprise

with a universal-service obligation may set according to § 72 before the addition of any balancing- or administration contributions according to § 72, paragraph 2.

Paragraph 2. The Minister of Transport and Energy may set rules or make decisions on the definition of isolated collective electricity-supply grids covered by paragraph 1.

§ 28 b. The system operator shall set up a program for internal monitoring that describes its measures to prevent discriminatory behaviour. The system operator shall ensure compliance with the program for internal monitoring and that the program is appropriately supervised. An annual report with a description of the program and its supervision shall be made public and submitted to the Energy Regulatory Authority.

Paragraph 2. The Minister of Transport and Energy may set specific rules on the conditions referred to in paragraph 1, including on the contents of the program for internal monitoring and on supervision procedures.

§ 29. The system operator shall ensure that any research, development and demonstration projects necessary for using environmentally friendly electricity-producing technologies are carried out, including development of an environmentally friendly and secure electricity system.

Paragraph 2. The Minister of Transport and Energy may set rules on the projects referred to in paragraph 1, including rules specifying that such plans shall be approved before related expenditure may be charged to consumers (cf. § 8, paragraph 4, point 1).

§ 30. The Minister of Transport and Energy may set rules specifying that the system operator shall see to it that stores of fuel for electricity and CHP production are maintained in the interests of supply security, including rules requiring electricity-producing enterprises to assist in the purchase and setting up of such stores.

§ 31. In the carrying out of its tasks, the system operator shall contribute to ensuring that the best possible conditions are established for competition on the markets for electricity production and trade (cf. § 1, paragraph 2).

Paragraph 2. In order to carry out the task referred to in paragraph 1, the system operator may enter into agreements on upward and downward adjustments with a view to counteracting the effect of capacity restrictions in the collective electricity-supply grid.

Paragraph 3. The Minister of Transport and Energy may give the system operator approval to carry out, either wholly or partially, activities for the registration and sale of RES certificates. The Minister may set conditions for this approval, including that independent, limited-liability companies carry out the activities.

Paragraph 4. The Minister of Transport and Energy may set specific rules on the agreements into which the system operator may enter pursuant to the provision in paragraph 2.

§ 32. (Repealed)

Chapter 6

Activity Subject to a Universal-Service Obligation

§ 33. An activity subject to a universal-service obligation may only be carried out after enterprises that fulfil the requirements in Chapter 8 have been granted a license for such activity.

Paragraph 2. The license is granted by the Minister of Transport and Energy for a specific area and remains valid for five years.

§ 34. An enterprise with a universal-service obligation shall offer supply of electricity to consumers in a given license area who do not avail themselves of the option to choose another supplier or if supply agreements with another supplier have been terminated.

Paragraph 2. Enterprises that supply electricity to a consumer pursuant to paragraph 1 shall inform the consumer as to which enterprise the latter receives its electricity supply from and according to which conditions. It shall also inform the consumer that the latter has the right to cancel and to resume supply from the enterprise with a universal-service obligation within a reasonable period and at prices set in accordance with § 72.

Paragraph 3. An enterprise that supplies electricity to a consumer pursuant to paragraph 1 shall offer the consumer fulfilment of the purchase obligation for RES certificates according to the rules in Chapter 9.

Chapter 7

Transfer, Consumer Influence, Separation of Activities, Etc.

§ 35. Transmission grids of between 100 kV and 200 kV and connections to another country of less than 100 kV made available to the system operator and equity in transmission enterprises owning such grids (transmission shares) may be surrendered only to the State. Owners wanting to surrender pursuant to this provision shall so inform the Minister of Transport and Energy.

Paragraph 2. The obligation to surrender transmission shares to the State takes effect when 50% of the equity in an enterprise that directly or indirectly holds such transmission shares changes ownership after 21 April 2004 or when holders of equity in an enterprise that directly or indirectly owns transmission shares either by acquisition or at a later point in time alone or in association with other equity holders acquire determining influence in the enterprise concerned. According to this provision, change of ownership does not include change of ownership of equity in consumer-owned companies when takeover of ownership is a regulatory condition for takeover of use of the company's installation by new consumer.

Paragraph 3. An enterprise that directly or indirectly owns transmission shares shall immediately inform the Minister of Transport and Energy when 50% of the equity in the enterprise changes ownership after 21 April 2004 or if the enterprise learns that one of its owners alone or in association with other owners acquires determining influence in the enterprise. An owner that alone or in association with others acquires determining influence in an enterprise shall immediately so inform the Minister of Transport and Energy.

Paragraph 4. Business-related restructuring and the use of rights of pre-emption, purchase options or subscription rights acquired before 21 April 2004 are not covered by paragraphs 1-3.

Paragraph 5. The State's purchase obligation as referred to in paragraphs 1 and 2 is exercised by the Minister of Transport and Energy within three months of the Minister having been informed according to the provisions in paragraphs 1 and 3. If the transfer results in splitting of the transmission grid as referred to in paragraph 6, the deadline is calculated from the date on which the

splitting occurred. The Minister may appoint a State enterprise to fulfil the purchase obligation referred to in paragraphs 1 and 2.

Paragraph 6. Before State takeover of transmission shares as referred to in paragraphs 1 and 2, enterprises that both own transmission grids covered by paragraph 1 and other grids shall separate the transmission grid covered by paragraph 1 into an independent joint-stock company. This separation shall occur within twelve months of notification being received that the State's purchase obligation has taken effect.

Paragraph 7. If agreement cannot be reached on the price and payment terms for transfer of transmission-grid ownership as referred to in paragraphs 1 and 2, the Tax Commission, pursuant to the rules in Chapter 4 of the Act on Procedure in Expropriation of Real Property, sets the price and payment terms.

Paragraph 8. The Minister of Transport and Energy may request any information from enterprises, sellers of equity and owners covered by paragraphs 1-3 which he or she considers necessary in order to ascertain compliance with the relative provisions.

Paragraph 9. Transmission enterprises that operate transmission grids covered by paragraph 1 shall be operated as joint-stock companies as of 1 January 2005.

§ 35 a. The Minister of Transport and Energy may enter into agreements on the State's takeover of transmission grids 200 or more kV , on grid connections outside of Denmark and on system operators.

Paragraph 2. Grid enterprises may choose to transfer equity to the State as part of an agreement made according to paragraph 1 irrespective of regulatory provisions on non-transferability. The transfer of equity as part of an agreement made according to paragraph 1 is taxed according to the rules of the Capital Gains Tax Act since all of the equity transferred irrespective of regulatory provisions on non-transferability is considered in its entirety as acquired when the shareholder enters the transmission enterprise and as surrendered when taken over by the State.

§ 36. (Repealed)

§ 37. Municipalities and counties shall keep records of revenue from and payments made with surrender of equity in enterprises that were covered by § 2, paragraph 1 after 20 February 2003 or in enterprises that directly or indirectly own equity in such enterprises after 20 February 2003.

Paragraph 2. Business-related restructuring in the form of mergers, splitting or the transfer of shares covered by the rules of the Merger Tax Act or in the form of share exchanges covered by § 13 of the Capital Gains Tax Act are not considered as surrender of equity as referred to in paragraph 1, if the municipality or county's payment is in the form of equity in one or more enterprises covered by paragraph 1.

Paragraph 3. The recording shall include the date on which the revenue or payment was made available to the municipality or county (availability date) and the amount.

Paragraph 4. By 1 February each year, municipalities and counties shall report to the Energy Regulatory Authority the records that they have kept in the previous calendar year according to paragraphs 1 and 3.

Paragraph 5. The records shall show the total amount made available in the previous calendar year (availability amount) and shall be accompanied by documentation on the amount of the distributions and payments recorded and on the recorded availability dates. The report shall also state the interest calculated on the availability amount as of the individual availability dates up to 1 July in the year following the reporting year if (cf. paragraph 9) there is a reduction in the municipality's or county's

State subsidy according to the Act on Municipal Equalisation and General Subsidies to Municipalities and Counties. The interest rate is the National Bank of Denmark's discount rate as of 1 January in the reporting year. If the Energy Regulatory Authority determines that the accompanying documentation is insufficient, it may request further documentation.

Paragraph 6. When submitting reports according to paragraph 5, municipalities which are owners of joint-stock companies quoted on the stock exchange on 20 February 2003 may, in the total availability amount inclusive of interest calculated, deduct an amount equal to the average revenue received from companies covered by paragraph 1 between 1998 and 2002. The deduction may not, however, exceed the total amount of revenue received in the calendar year covered by the report.

Paragraph 7. The Energy Regulatory Authority may set rules on the form of the report and on the documentation which shall accompany it.

Paragraph 8. The Energy Regulatory Authority decides whether the availability amount, the availability dates, the interest calculated and any deduction according to paragraph 6 may be approved. If the Energy Regulatory Authority is unable to approve the foregoing, it determines these amounts and dates.

Paragraph 9. By 1 May each year, the Energy Regulatory Authority informs the Ministry of the Interior of the availability amounts, calculated interest and any deductions approved according to paragraph 8. The Ministry of the Interior subsequently reduces the municipality's or county's State subsidy according to the provisions in § 10, paragraphs 6-9, and § 17, paragraphs 6-9, of the Act on Municipal Equalisation and General Subsidies to Municipalities and Counties.

Paragraph 10. Municipalities and counties may not hold equity in enterprises covered by paragraph 1 without the permission of the Minister of Transport and Energy if the enterprises concerned or enterprises that directly or indirectly own equity in those enterprises begin significantly new activities. The Minister of Transport and Energy may set conditions for the granting of such permission. If such permission is not granted, the municipality or county shall dispose of all equity in the enterprises concerned as soon as possible.

Paragraph 11. The provision in paragraph 10 does not apply to the extent that the enterprises covered by paragraph 1 undertake new activities covered by this Act, the Act on Heat Supply or the Act on Natural-Gas Supply.

§ 38. (Repealed)

§ 39. Collective electricity-supply enterprises shall inform the Energy Regulatory Authority in writing of any whole or partial surrender of their equity in electricity-producing enterprises or other collective electricity-supply enterprises. Collective electricity-supply enterprises shall also inform the Energy Regulatory Authority of which enterprises, to the extent of their knowledge, own equity in them.

Consumer Representation

§ 40. At least two members of a grid enterprise's board of directors shall either directly or by means of a representative committee be elected from among consumers in the grid enterprise's supply area.

Paragraph 2. If the grid enterprise is operated as a joint-stock company, § 59, paragraph 1 and paragraph 2, point 2, of the Private Companies Act do not apply.

§ 41. Grid enterprises owned by consumers or municipalities may, in place of the influence referred to in § 40, allow the consumers or one or more municipal councils in the enterprise's supply area either directly or by means of a representative committee to elect the majority of the enterprise's board of directors by virtue of the exercise of their shareholder rights at the grid enterprise's general assembly. The majority may also be elected jointly by consumers and one or more municipal councils.

Paragraph 2. The influence referred to in paragraph 1 is considered to be achieved if the majority of board members in a grid enterprise that is operated as a co-operative is appointed by consumers or municipal councils in the supply area or jointly by them. The same applies to municipal grid activities (cf. § 4, paragraph 1, point 1).

Paragraph 3. The influence referred to in paragraphs 1 and 2 is considered to be achieved if consumers or municipalities own the grid enterprise through one or more legal persons, on the condition that the boards of directors of such legal persons are elected according to the procedures referred to in paragraphs 1 and 2 and that these boards of directors directly or indirectly elect the grid enterprise's board of directors.

§ 42. Consumer representatives as referred to in § 40 shall be elected for the first time within three months of the date on which the grid enterprise fails to satisfy the consumer-influence requirement referred to in § 41.

Paragraph 2. The grid enterprise shall ensure that consumer representatives are elected in accordance with § 40.

§ 43. (Repealed)

§ 44. In order for a grid enterprise's statutes to be approved according to § 53, paragraph 2, they shall include specific provisions that ensure implementation of §§ 40-42.

Paragraph 2. Election of consumer representatives as referred to in §§ 40 and 41 shall be done so that all connected consumers have the same influence irrespective of consumption. Consumer representatives shall have the same rights and obligations as other board members.

Paragraph 3. The Minister of Transport and Energy may, if made necessary by particular conditions, grant dispensation from the requirement referred to in paragraph 2 on equal influence for all consumers irrespective of consumption.

Competence to Act

§ 45. Directors, deputy directors, assistant directors and the senior staff of a grid or transmission enterprise or system operator may not directly or indirectly participate in the operation or management of an associated electricity-producing or electricity-trading enterprise or an associated enterprise that directly or indirectly owns the latter unless it is a question of a collective electricity-supply enterprise.

Paragraph 2. Board members of a grid or transmission enterprise or system operator may not directly or indirectly participate in the operation or management of an electricity-producing or electricity-trading enterprise associated with the enterprise of whose board they are members.

Paragraph 3. Paragraphs 1 and 2 do not apply to grid enterprises with less than 100,000 connected consumers. The Minister may, however, set rules on the modification of this limit.

Paragraph 4. The Minister of Transport and Energy may set specific rules with a view to ensuring that the management of a grid or transmission enterprise or of the system operator is able to act independently of commercial interests.

Agreement Terms

§ 46. Agreements that a collective electricity-supply enterprise enters into with other enterprises, including company-related enterprises, shall be entered into according to market terms.

Paragraph 2. The agreements covered by paragraph 1 shall be available in written form at the time when such agreements are made. When so requested by the Energy Regulatory Authority, the enterprise concerned shall submit appropriate documentation demonstrating the manner in which the prices and terms for substantial agreements have been set.

Separation of Activities

§ 47. Licenses may not be granted to the same enterprise for both grid and transmission activities (with the exceptions referred to in paragraph 2). A licence holder may only carry out the activities covered by its license.

Paragraph 2. A license may, however, be granted to the same enterprise for both grid and transmission activities if the Minister of Transport decides that it can be granted without constituting an obstacle to the proper conduct of the activities to be carried out under the terms of the licence.

Paragraph 3. In the cases referred to in paragraph 1, the enterprise shall keep separate accounts for the activities to be carried out under the terms of the licence.

Paragraph 4. Other activities that are outside the scope of the licence, including production of or trade in electricity, shall be carried out by independent, limited-liability companies.

Paragraph 5. Paragraph 4 does not apply to municipalities carrying out activities as referred to in § 4, paragraph 1, point 1.

§ 48. Enterprises producing electricity by incinerating waste may not, in the same enterprise, carry out other electricity-producing or -trading activity.

§ 49. Sums that an enterprise collects on behalf of others pursuant to the provisions of this Act shall be kept separate from the enterprise's own assets.

Chapter 8

General Provisions Concerning Licenses

§ 50. Licenses granted to collective electricity-supply enterprises and to enterprises with a universal-service obligation may only be granted to applicants considered to have the necessary technical and financial resources.

Paragraph 2. In addition to terms which may be set pursuant to Chapters 3-6, terms may be set in licenses as warranted by specific conditions prevailing in the enterprise concerned. Terms may also be set if necessary in order to comply with related EU rules or recommendations.

Paragraph 3. The Minister of Transport and Energy may set a condition in a license to the effect that he or she may, on one year's notice, decide that electricity-producing enterprises shall, in the interests of supply security, maintain a specified minimum production capacity.

Paragraph 4. The Minister of Transport and Energy may set a condition in a license to the effect that he or she may, on one year's notice, decide that electricity-transmission enterprises shall, in the interests of supply security, maintain a specified transmission capacity.

§ 51. The Minister of Transport and Energy monitors both compliance with license terms and the activity which Energinet Danmark and its wholly owned subsidiaries, pursuant to § 2, paragraphs 2 and 3, of the Act on Energinet Danmark may carry out pursuant to the Act on Electricity Supply.

Paragraph 2. License holders, Energinet Danmark and its wholly-own subsidiaries (cf. § 2, paragraphs 2 and 3, of the Act on Energinet Danmark may carry out pursuant to the Act on Electricity Supply) shall pay any expenses arising from monitoring done according to the rules set by the Minister of Transport and Energy.

Paragraph 3. According to rules set by the Minister of Transport and Energy, collective electricity-supply enterprises shall pay any expenses arising from the Minister's processing and assessment of the collective electricity-supply networks' planning, research and development tasks, including the activities referred to in § 22, paragraph 1, point 6, § 22, paragraph 6, § 28, paragraph 2, points 2 and 7 and § 29.

Paragraph 4. Holders of licenses for grid, transmission and production activities shall own the installations used for the activities to be carried out under the terms of their licences.

Paragraph 5. In special cases, the Minister of Transport and Energy may grant dispensation from the provision in paragraph 4.

§ 52. New terms may be set in a license after five years and on one year's notice.

§ 53. Licenses granted pursuant to this Act are exempted from legal proceedings and may be neither directly nor indirectly transferred to other parties unless the Minister of Transport and Energy authorises such transfer and approves the related terms.

Paragraph 2. The Minister of Transport and Energy shall approve collective electricity-supply enterprises' statutes and modifications thereto. This does not, however, apply to Energinet Danmark.

§ 54. A license may be withdrawn if:

- 1) provisions or terms laid down or orders issued in accordance with this Act or rules issued pursuant to this Act are repeatedly contravened;
- 2) incorrect or misleading information is given in an application for a license or permit in connection with a license; or
- 3) the holder of the license or permit gives notice of payment suspension, makes a petition for bankruptcy or is declared bankrupt.

Paragraph 2. If a contravention as referred to in paragraph 1 can be remedied, the Minister of Transport and Energy may inform the holder of the license that it shall fulfil its license or permit obligations within a specific period.

Paragraph 3. Decisions according to paragraph 1, points 1 and 2, are made by a court; decisions according to paragraph 1, point 3, are made by the Minister of Transport and Energy.

Paragraph 4. If contravention of provisions, terms or orders issued in accordance with this Act or rules issued pursuant to the Act includes significant disregard of supply security, the Minister of

Transport and Energy may temporarily withdraw the license. The Minister of Transport and Energy shall, in connection with a decision to withdraw a license, inform the party concerned as to the right of legal review (cf. paragraph 5).

Paragraph 5. A party whose license is withdrawn according to paragraph 4 may request that a court review the decision.

Paragraph 6. If a license is withdrawn from a grid or transmission enterprise pursuant to paragraphs 1 or 4, the Minister of Transport and Energy may order the system operator to carry on the activities covered by the license. Any necessary costs incurred by the system operator in this regard are distributed among users of the activity taken over.

Paragraph 7. A party whose license is withdrawn according to paragraphs 1 or 4, or the bankrupt estate, shall, when so decided by the Minister of Transport and Energy, assist the system operator or a new license holder in the takeover of operations. It shall also make installations, customer files, etc., available to the overtaking enterprise at reasonable terms. The Minister of Transport and Energy may decide the terms according to which installations, customer files, etc., shall be made available. The Minister may set further rules in this regard.

Paragraph 8. The Minister of Transport and Energy may offer to other parties a license that has been withdrawn pursuant to paragraphs 1 or 4.

Chapter 9

Environmentally Friendly Electricity Production

a. Settlement Prices, etc., for RES Electricity

§ 55. RES electricity is understood as electricity produced from wind energy, biogas, biomass, solar energy and wave energy, including electricity produced at hydropower plants of less than 10 MW.

Paragraph 2. Utility-financed installations are understood as RES electricity-producing installations established or converted as required according to § 13 of Act no. 54 of 25 February 1966 on electricity supply as formulated in Act no. 486 of 12 June 1976 or upon special agreement with the Minister of Transport and Energy, apart from installations which are either wholly or partially used for waste incineration.

Paragraph 3. The Minister of Transport and Energy may set rules on the definition of the energy sources referred to in paragraph 1 and may modify the capacity limit for hydropower plants covered by paragraph 1. The Minister of Transport and Energy may set rules specifying or decide that energy sources and technologies other than those referred to in paragraph 1 are covered by the term "RES electricity".

Settlement Prices, etc. for Wind Turbines

§ 56. This provision deals with electricity produced by wind turbines not covered by §§ 56 a - 56 c.

Paragraph 2. RES certificates are issued for electricity as referred to in paragraph 1. Until RES certificates are issued, a settlement price amounting to 10 øre/kWh is paid. The settlement price is, not however, paid for electricity produced at utility-financed wind turbines grid connected before 31 December 1999. RES certificates are issued or settlement prices are paid for 20 years as of the date of grid connection.

Paragraph 3. The settlement price referred to in paragraph 2 for electricity produced from wind turbines grid connected before 1 January 2005 is set so that it and the market price set according to § 59, paragraph 2, points 3 or 4 do not together exceed 36 øre/kWh.

Paragraph 4. In addition, a rebate of 2.3 øre/kWh is paid for balancing costs for electricity produced by wind turbines covered by paragraph 1, except for utility-financed wind turbines. After consulting the committee referred to in § 3, the Minister of Transport and Energy may set rules specifying that the rebate is to be reduced or cancelled.

Paragraph 5. An extra settlement price of 10 øre/kWh is paid for electricity as referred to in paragraph 1 from wind turbines with a capacity of a maximum of 200 kW and which were grid connected by 31 December 1992. The settlement price is paid for a maximum of 20 years after the wind turbines have been connected to the electricity-supply grid for electricity production corresponding to 35,000 hours at the wind turbines' installed power (peak-load hours), with a deduction of electricity production for which a settlement price is paid according to § 56 a or to a provision previously in effect on transfer prices and settlement prices in the Act on Electricity Supply or rules issued pursuant to these provisions. The settlement price is set in the same way as referred to in paragraph 3.

Paragraph 6. The extra settlement price referred to in paragraph 5 is conditional on the electricity producer having applied for it by 31 December 2003 and on the wind turbine's direct production costs per kWh during the last five accounting years having, on average, exceeded 26 øre/kWh. The Minister of Transport and Energy may set rules on the specification, calculation and documentation of direct production costs and on the requirement to apply.

Paragraph 7. The Minister of Transport and Energy may set rules on calculation of wind turbines' installed power and production and on other factors affecting the setting of settlement prices and other benefits.

§ 56 a. This provision deals with electricity produced by wind turbines grid connected by 31 December 2002 and which fulfil the following conditions. The provision does not apply to electricity from wind turbines grid connected in own-use installations as referred to in § 56 b nor to utility-financed wind turbines.

Paragraph 2. If a wind turbine fulfils the definition of an existing wind turbine (cf. paragraph 8), it benefits from a settlement price for electricity as specified in paragraphs 3-5. The settlement price terminates on 31 December 2012 irrespective of the settlement price duration specified in paragraphs 3-5. RES certificates are not issued for the electricity.

Paragraph 3. The settlement price is set so that it and the set market-price referred to in § 59, paragraph 2, point 1, together amount to 60 øre/kWh. The settlement price is paid for ten years as of when the wind turbine is first connected to the electricity-supply grid to the extent that supply of electricity corresponds to original electricity production within the following peak-load hours:

- 1) for wind turbines with installed power of 200 kW or less, a settlement price is paid for 25,000 peak-load hours;
- 2) for wind turbines with installed power of from 201 kW up to and including 599 kW, a settlement price is paid for 15,000 peak-load hours;
- 3) for wind turbines with installed power of 600 kW or more, a settlement price is paid for 12,000 peak-load hours.

Paragraph 4. If the amount of electricity referred to in paragraph 3 is supplied within ten years of grid connection, the settlement price is paid for continued electricity production for ten years as of

grid connection. The settlement price is set so that it and the set market-price referred to in § 59, paragraph 2, point 1, together amount to 43 øre/kWh.

Paragraph 5. If the total amount of electricity referred to in paragraph 3, points 1-3, is not supplied within ten years of the wind turbine being connected to the grid, a settlement price is paid for the remaining part of the electricity production concerned. The settlement price amounts to 27 øre/kWh and is set so that it and the set market-price referred to in § 59, paragraph 2, point 1, together do not exceed 60 øre/kWh.

Paragraph 6. If the wind turbine does not fulfil the definition of an existing wind turbine (cf. paragraph 8), a settlement price is paid according to the conditions set in points 1 and 2. The settlement price is set so that it and the set market-price referred to in § 59, paragraph 2, point 1, together amount to 33 øre/kWh.

- 1) for wind turbines on land, the settlement price is paid for original electricity-production corresponding to production during 22,000 peak-load hours;
- 2) for wind turbines in Danish territorial waters, etc. (cf. § 16, paragraph 1) and which are not located in a main area selected for wind-turbine expansion, a settlement price for electricity production is paid for ten years as of when the wind turbines are grid connected.

Paragraph 7. RES certificates are issued for the electricity production referred to in paragraph 6. Until RES certificates are issued, a settlement price of 10 øre/kWh is paid.

Paragraph 8. The Minister of Transport and Energy may set rules on the conditions which a wind turbine shall fulfil in order to be considered as existing as referred to in paragraph 2 and on the definition of wind turbines in Danish territorial waters, etc., as referred to in paragraph 6, point 2.

§ 56 b. A settlement price is paid for electricity supplied to the electricity-supply grid from a wind turbine with installed power of 25 kW or less and which is connected to an installation for own use. The settlement price is paid irrespective of when the connection is made and is set so that it and the set market-price referred to in § 59, paragraph 2, point 1, together amount to 60 øre/kWh.

Paragraph 2. No RES certificates are issued for electricity for which settlement prices are paid according to paragraph 1.

Paragraph 3. After consulting the committee referred to in § 3, the Minister of Transport and Energy may set rules on cancellation of the settlement price.

§ 56 c. This provision deals with electricity produced at utility-financed wind turbines grid connected as of 1 January 2000, apart from electricity from wind turbines in Danish territorial waters, etc. (cf. § 16, paragraph 1), financed with reserves according to the Act on Electricity Supply hitherto in force.

Paragraph 2. For electricity produced at a wind turbine on land, a settlement price is paid set so that it and the set market-price referred to in § 59, paragraph 2, point 1, together amount to 33 øre/kWh. The settlement price is paid for ten years as of when the wind turbine is connected to the electricity-supply grid.

Paragraph 3. For electricity produced at a wind turbine in Danish territorial waters, etc. (cf. paragraph 1), a settlement price is paid set so that it and the set market-price referred to in § 59, paragraph 2, point 1, together amount to 35.3 øre/kWh. If the producer shall pay a network tariff when transferring electricity to the overall electricity-supply grid, an additional settlement price of up to 0.7 øre/kWh in an average 24-hour period is also paid. This settlement price is paid for electricity production corresponding to production during 42,000 peak-load hours.

Paragraph 4. RES certificates are issued for electricity from wind turbines covered by paragraphs 2 and 3. Until RES certificates are issued, a settlement price of 10 øre/kWh is paid.

Paragraph 5. After consulting the committee referred to in § 3, the Minister of Transport and Energy may set rules on cancellation of the settlement price referred to in this provision.

§ 56 d. This provision deals with additional settlement prices for electricity produced at a new wind turbine for which decommissioning certificates issued for the dismantling of wind turbines are used.

Paragraph 2. A settlement price is paid for electricity produced at a wind turbine grid connected between 1 April 2001 and 1 January 2004 on the condition that the wind turbine's owner makes use of decommissioning certificates issued for the dismantling of a wind turbine with a power of 150 kW or less in the period between 3 March 1999 and 31 December 2003. The settlement price amounts to 17 øre/kWh and is paid for electricity production corresponding to 12,000 peak-load hours for the part of the electricity produced which is covered by the decommissioning certificate.

Paragraph 3. If a settlement price is paid according to paragraph 2 or and to § 56 a, paragraph 6, the total of the settlement prices is set so that it and the set market-price referred to in § 59, paragraph 2, point 1, together do not exceed 60 øre/kWh.

Paragraph 4. A settlement price is paid for electricity produced at a wind turbine grid connected during a five-year period calculated from a date set by the Minister of Transport and Energy on the condition that the owner of the wind turbine makes use of decommissioning certificates issued for the dismantling of a wind turbine with a power of 450 kW or less in a period of at least five years determined in a similar manner (cf. paragraph 5). A decommissioning certificate may, however, not be used for wind turbines in Danish territorial waters, etc. (cf. § 16, paragraph 1), or for wind turbines connected to own-use installations as referred to in § 56 b. The settlement price amounts to 12 øre/kWh and is paid for electricity production corresponding to 12,000 peak-load hours for double the dismantled wind turbine's installed power.

Paragraph 5. The decommissioning certificates referred to in paragraph 4 may only be issued for a pool corresponding to dismantled wind turbines' total power of 175 MW.

Paragraph 6. The settlement price referred to in paragraph 4 is set so that it, the set market-price referred to in § 59, paragraph 2, point 1, and the settlement price referred to in §56, paragraph 2, together do not exceed 48 øre/kWh.

Paragraph 7. A wind turbine for which a decommissioning certificate is issued may not be reconnected to the electricity-supply grid or to a use installation from which electricity may be supplied to the electricity-supply grid.

Paragraph 8. The Minister of Transport and Energy may set rules on the issuing, conversion and use of decommissioning certificates and on documentation showing that the conditions for the settlement price have been fulfilled. The Minister may also set specific rules on calculation of the pool referred to in paragraph 5.

Settlement prices, etc., to Other RES Electricity-Producing Installations

§ 57. This provision deals with electricity produced at RES electricity-producing installations other than wind turbines. The provision does not apply to electricity produced at installations covered by § 57 a nor to electricity produced with the use of one or more renewable-energy sources along with other energy sources as referred to in § 57 b.

Paragraph 2. RES certificates are issued for electricity produced at the installations referred to in paragraph 1 if the electricity does not receive a settlement price according to paragraphs 3 or 4 of if the electricity has not received a settlement price to the extent specified in these provisions (cf. paragraph 7). Until RES certificates are issued, a settlement price of 10 øre/kWh is paid. RES

certificates are issued and settlement prices paid for 20 years as of when the installation is connected to the electricity-supply grid.

Paragraph 3. For electricity from installations grid connected no later than 21 April 2004, a settlement price is paid set so that it and the set market-price referred to in § 59, paragraph 2, point 1, together amount to 60 øre/kWh. The settlement price is paid for 20 years as of the grid connection, for a minimum of at least fifteen years as of 1 January 2004.

Paragraph 4. For electricity from the installations referred to in points 1 and 2, a settlement price is paid set so that it and the set market-price referred to in § 59, paragraph 2, point 1, together amount to 60 øre/kWh, for ten years after grid connection, and 40 øre/kWh for the following ten years:

- 1) installations using biogas as fuel and grid connected between 22 April 2004 and 31 December 2008 (cf. paragraph 5);
- 2) installations that the Minister of Transport and Energy has determined were grid connected on 22 April 2004 or later and which use energy sources or technologies significant to the future use of RES electricity.

Paragraph 5. Settlement prices for electricity produced from biogas as referred to in paragraph 4, point 1, and § 57 b, paragraph 3, point 1, may only be paid if a commitment is made to receive the settlement price within a period corresponding to a total annual electricity production with the use of 8 PJ biogas. Commitments not fulfilled have no validity.

Paragraph 6. The Minister of Transport and Energy may grant dispensation from settlement price payment to electricity-producing installations using biogas as fuel and grid connected after 31 December 2008 if the grid connection is delayed for reasons not attributable to the biogas producer.

Paragraph 7. After consulting the committee referred to in § 3, the Minister of Transport and Energy may set rules specifying that settlement prices to specified categories of installations as referred to in paragraphs 3 and 4 are to be reduced or cancelled. The Minister of Transport and Energy may set specific rules regarding or decide as to which installation categories may receive settlement prices according to in paragraph 4, point 2.

Paragraph 8. The Minister of Transport and Energy may set rules on the making and cancellation of commitments, calculation of the period referred to in paragraph 5, and on conditions for giving dispensation as referred to in paragraph 6.

§ 57 a. This provision deals with settlement prices and RES certificates for electricity produced at utility-financed, RES installations that use biomass as a fuel. The provision does not apply to electricity from installations which either wholly or partially incinerate waste.

Paragraph 2. A settlement price is paid for the electricity referred to in paragraph 1 set so that it and the set market-price referred to in § 59, paragraph 2, point 1, together amount to 30 øre/kWh. The settlement price is paid for ten years as of when the biomass-fired installation concerned begins operation, although for at least ten years as of 1 August 2001.

Paragraph 3. In addition to the settlement prices referred to in paragraph 2 and the RES certificates referred to in paragraph 4, the Minister of Transport and Energy, after consulting the committee referred to in § 3, may decide that, within the period referred to in paragraph 2, a settlement price is to be paid for up to DKK 100/ton of incinerated biomass. When the amount of the settlement price is set, weight may be given to the expenses that the owner of the individual installation sustains in connection with the incineration. These settlement prices may amount to a maximum of DKK 30 million/year.

Paragraph 4. RES certificates are also issued to electricity from installations covered by paragraph 2. Until RES certificates are issued, a settlement price of 10 øre/kWh is paid.

Paragraph 5. After consulting the committee referred to in § 3, the Minister of Transport and Energy may set rules on cancellation of the settlement price referred to in this provision.

§ 57 b. This provision deals with settlement prices for electricity produced with the use of one or more renewable-energy sources as well as with other fuels apart from electricity produced at the installations covered by § 57 a. The settlement price is paid as of when the renewable-energy sources are first used in the electricity-producing installations concerned. A settlement price may also be paid for this electricity according to §§ 58 or 58 a if the necessary conditions are met.

Paragraph 2. If use of the renewable-energy sources is begun by 21 April 2004, a settlement price amounting to 26 øre/kWh is paid for electricity produced from these energy sources. The settlement price is paid for 20 years, although for at least fifteen years as of 1 January 2004.

Paragraph 3. If use of the renewable-energy sources referred to in paragraphs 1 and 2 is begun on or later than 22 April 2004, a settlement price amounting to 26 øre/kWh is paid for electricity produced from these energy sources for the first ten years and 6 øre/kWh for the following ten years.

- 1) electricity produced from biogas as fuel, if the use of the biogas is begun no later than 31 December 2008 (cf. paragraph 4).
- 2) electricity produced from energy sources or technologies that the Minister of Transport and Energy has determined are significant to future use of RES electricity.

Paragraph 4. Settlement prices for electricity produced from biogas as referred to in paragraph 3, point 1, may be paid only if a commitment is made to receive the settlement price within the period specified in § 57, paragraph 5.

Paragraph 5. RES certificates are not issued for electricity covered by paragraph 1.

Paragraph 6. After consulting the committee referred to in § 3, the Minister of Transport and Energy may set rules specifying that the settlement prices in this provision are to be reduced or cancelled and may also set specific rules on or decide as to which categories of electricity may receive settlement prices according to paragraph 3, point 2.

Paragraph 7. The Minister of Transport and Energy may set rules specifying the procedures for calculation of settlement prices for electricity from RES electricity-producing installations using different fuels.

b. Settlement Prices, etc., for Other Forms of Environmentally Friendly Electricity

§ 58. This provision deals with settlement prices for electricity produced at decentralised CHP plants and electricity-producing installations using waste as fuel and which have received a transfer price set according to Act no. 786 of 21 August 2000 on electricity-transfer prices for decentralised electricity producers (the 3-tier tariff). The provision does not apply to electricity benefiting from the settlement price referred to in § 58 a. Neither does it apply to electricity produced at RES electricity-producing installations as referred to in § 57.

Paragraph 2. Payment of the settlement price is conditional on the electricity-producing installation concerned first being connected to the electricity-supply grid no later than 21 April 2004 or that, by the same date, a project has been submitted to establish an electricity-producing installation that meets specific feasibility criteria. An electricity-producing installation is understood as one or more technical installations that carry out CHP supply or waste incineration at the same location.

Paragraph 3. The settlement price is paid for 20 years as of grid connection as referred to in paragraph 2, although for at least fifteen years as of 1 January 2004.

Paragraph 4. The settlement price is set and paid monthly on the basis of one-twelfth of the basic amount referred to in paragraph 6. When the average monthly market price as referred to in § 59, paragraph 2, point 2, is 11.0 øre/kWh or less, the basic amount is indexed with a factor of 1.4. The settlement price is reduced linearly with a market price of over 11.0 øre/kWh and is cancelled when the market price amounts to 34.0 øre/kWh.

Paragraph 5. Market prices of 11.0 øre/kWh and 34.0 øre/kWh and the factor of 1.4 are index adjusted on 1 January of each year from 2005 up to and including 2009 on the basis of the conditions in the previous twelve months in relationship to 2003.

Paragraph 6. The basic amount is set as the highest subsidy paid (cf. paragraph 7) in 1 of the years between 2001 and 2003. If electricity was produced in only 1 of the years, a basic amount is set on the basis of electricity production in another period according to specific criteria. The basic amount is set on the basis of calculated forecast electricity-production in a given period, if a subsidy-entitled electricity-producing installation is grid connected for the first time after 31 December 2003 or if, by 21 April 2004, a project has been submitted as referred to in paragraph 2 for expansion of production capacity in an existing installation.

Paragraph 7. The subsidy paid is set as the sum of the amounts referred to in points 1 and 2 during the period referred to in paragraph 6:

- 1) the difference calculated according to specific criteria between the average calculation of electricity production in the period according to the 3-tier tariff and the payment which would have been made according to the average market price during the same period;
- 2) 1.0 øre/kWh for electricity production during the same period.

Paragraph 8. Payment of the settlement price is conditional on the production installation concerned being operational and available for operation by the interconnected electricity-supply system.

Paragraph 9. After consulting the committee referred to in § 3, the Minister of Transport and Energy may set rules on reduction or cancellation of the settlement price.

Paragraph 10. The Minister of Transport and Energy may set rules on the definition of projects that fulfil the conditions referred to in paragraph 2, on definition of an electricity-producing installation as referred to in paragraph 2, and on the calculation methods referred to in paragraphs 4-7. The Minister of Transport and Energy may set specific rules specifying how the conditions in paragraph 8 are to be met.

§ 58 a. Instead of the settlement price referred to in § 58, a settlement price is paid according to the following provisions for electricity produced at decentralised CHP plants and electricity-producing installations using waste as fuel and which fulfil the conditions for receiving settlement prices as specified in § 58.

Paragraph 2. The settlement price is set so that it and the set market-price referred to in § 59, paragraph 2, point 1, together are equal to the calculation according to the 3-tier tariff (cf. paragraph 5). The settlement price is paid to installations with power of more than 5 MW and of up to 10 MW for two years as of when the settlement price referred to in § 58 may be paid. The settlement price is also paid to installations with power of up to and including 5 MW.

Paragraph 3. Payment for electricity according to the 3-tier tariff is index adjusted on a quarterly basis in the same manner as that referred to in § 58, paragraph 5.

Paragraph 4. An electricity producer may apply to transfer over to the settlement price referred to in § 58. When such a transfer is done, the period during which a settlement price was received according to the provisions above is deducted from the period during which the settlement price may be received according to § 58.

Paragraph 5. The Minister of Transport and Energy may set rules on payment methods for the settlement price according to paragraphs 2 and 3 and on deadlines, etc., for opting out of the settlement price. The Minister may also set rules on the calculation of the 3-tier tariff analogous to the criteria of Act no. 786 of 21 August 2000 on electricity-transfer prices for decentralised electricity producers.

§ 58 b. Settlement prices are paid for electricity from CHP plants other than those referred to in §§ 58 and 58 a intended to supply district heating and which have received subsidies in accordance with Chapter 7 of Act no. 231 of 21 April 1998 on access to the electricity-supply grid.

Paragraph 2. The settlement price is paid for a period of fifteen years as of 1 January 2004 and is set according to specific criteria as the sum of the following values:

- 1) the difference between the average of the necessary costs incurred and the average revenue from electricity production in one of the years between 2001 and 2003; one-twelfth of the settlement price is paid monthly, indexed in relationship to the average monthly market price as referred to in § 59, paragraph 2, point 2, so that the settlement price is cancelled when revenue from electricity production exceeds any necessary costs incurred; and
- 2) an amount of 1.0 øre/kWh for balancing costs for electricity supplied.

Paragraph 3. The amount referred to in paragraph 2, point 1, is adjusted on 1 January each year between 2005 and 2009, as referred to in § 58, paragraph 5.

Paragraph 4. After consulting the committee referred to in § 3, the Minister of Transport and Energy may set rules on reduction or cancellation of the settlement price.

Paragraph 5. The Minister of Transport and Energy may set rules on the methods used to calculate the settlement price.

c. General Provisions on the Setting of Settlement Prices, Sale of Environmentally Friendly Electricity Production, etc.

§ 59. The grid enterprises inform the system operator on an hourly basis of the amount of electricity produced at the installations referred to in §§ 56-58 b. The system operator sets the guidelines for calculation and reporting of electricity production.

Paragraph 2. The system operator sets the market price for electricity produced at the installations referred to in paragraph 1 as follows:

- 1) the market price for electricity produced at installations referred to in §§ 56 a - 56 c, 57, 57 a and 58 a is set on an hourly basis as the spot price (cf. paragraph 3) for electricity in the area concerned;
- 2) the market price for electricity produced at installations referred to in §§ 58 and 58 b is set on an monthly basis as an average of the spot price (cf. paragraph 3) in the area concerned;
- 3) the market price for electricity produced from wind turbines as referred to in § 56 (apart from those referred to in point 4) is set on a monthly basis as a weighted average of the market value of the total electricity production from wind turbines in the area concerned and the spot price (cf. paragraph 3);
- 4) the market price for electricity produced from wind turbines as referred to in § 56 and which are located in Danish territorial waters, etc. (cf. § 16, paragraph 1), and which are grid connected after 31 December 2002 is set on an annual basis as a weighted average of the market value of the electricity and the spot price (cf. paragraph 3).

Paragraph 3. The spot price for electricity is understood as the average electricity price per kWh on the spot market for the area concerned as announced by Nordic Electricity Exchange.

Paragraph 4. Payment for electricity produced in one hour at installations as referred to in § 56 a and 56 b, § 57, paragraphs 3 and 4, and § 58 may not exceed the total amounts set in these provisions for settlement prices and market prices. If the market price in a given hour exceeds the total amount, the system operator sets the exceeding amount off against the next payment of market prices and settlement prices.

Paragraph 5. If a market price set for electricity produced at installations as referred to in §§ 56 c and 57 a exceeds the total amounts for settlement prices and market prices set in these provisions, the system operator calculates a negative settlement price which may not exceed the amount of settlement prices paid out in the last year prior to the date of calculation. The negative settlement price is set off against settlement price payments.

§ 59 a. The system operator shall sell electricity production from the installations listed below through Nordpool, pay the proceeds to installations owners and carry out the balancing for electricity as referred to in § 27 c, paragraph 8, point 2:

- 1) wind turbines covered by §§ 56 a or 56 b and other RES electricity-producing installations covered by § 57.
- 2) decentralised CHP plants or electricity-producing, waste-incinerating installations covered by § 58 a.

Paragraph 2. Electricity producers covered by paragraph 1 are not required to pay costs incurred with the import of electricity to the electricity-supply grid if such costs do not lie with these producers according to provisions on obligatory purchase hitherto in force.

Paragraph 3. When the settlement price for electricity as referred to in paragraph 1 is discontinued, electricity producers shall inform the system operator that they have entered into an agreement on the sale and balancing of electricity production. This notification shall occur at least one month before the first day of the month as of which the settlement price is discontinued.

Paragraph 4. The system operator shall carry out balancing of electricity production at the wind turbines referred to in § 56, paragraph 1 and which were grid connected by 31 December 2002, apart from utility-financed wind turbines, and shall sell the electricity through Nordpool if the electricity producer so requests or if the electricity producer does not provide the notification referred to in paragraph 3. Balancing and sale is conditional on the electricity producer paying any necessary costs that the system operator incurs in this regard.

Paragraph 5. Accounts separate from those for the system operator's other tasks shall be kept for any revenue or costs arising from the tasks referred to in paragraphs 1 and 4.

Paragraph 6. The system operator sets guidelines, deadlines and terms for the balancing and sale referred to in paragraph 4.

RES certificates

§ 60. Producers of RES electricity receive certificates for the amount of RES electricity they have produced (cf. the provisions in §§ 56-56 c, 57 and 57 b). The certificates are called "RES certificates" and are tradable.

Paragraph 2. The Minister of Transport and Energy sets rules specifying which producers are covered by the provision in paragraph 1 as of the date set by the Minister and on the issuing, allocation and trading of RES certificates.

§ 61. As of a date set by the Minister of Transport and Energy, every electricity consumer in Denmark shall be obliged to acquire RES certificates. After consulting the committee referred to in § 3, the Minister of Transport and Energy sets the annual minimum number of RES certificates which each electricity consumer shall acquire. The purchase obligation is set uniformly for all electricity consumers as an obligation to acquire a specified proportion of RES certificates in relationship to electricity consumption.

Paragraph 2. The Minister of Transport and Energy reduces the purchase obligation referred to in paragraph 1 in cases in which it proves impossible to fulfil.

§ 62. System operators are responsible for fulfilling the purchase obligation referred to in § 61 on behalf of their customers.

Paragraph 2. Consumers with a supplier other than the enterprise with a universal-service obligation may fulfil their purchase obligation on their own or request the enterprise with a universal-service obligation in the supply area concerned to purchase RES certificates on their behalf.

Paragraph 3. The Minister of Transport and Energy sets rules on when and how fulfilment of the purchase is to be documented.

§ 63. If the purchase obligation referred to in § 61 is not fulfilled, 27 øre is paid for each kWh for which the obliged party should have purchased RES certificates according to § 62. The amount is paid to the State Treasury.

Paragraph 2. The Minister of Transport and Energy may set rules on payment and collection of the amount referred to in paragraph 1, including that the amount may be collected from collective electricity-supply enterprises. A right of distraint applies to the amount.

Guarantees of Origin and Eco-labelling

§ 63 a. The Minister of Transport and Energy may set rules on the issuing of guarantees of origin for electricity, including on:

- 1) the information which the guarantee of origin shall contain; and
- 2) the conditions for issuing of guarantees of origin.

Paragraph 2. The Minister of Transport and Energy may set rules specifying that consumers shall receive information on use of the energy sources of the electricity supplied in the previous year. The Minister may set rules in this regard specifying that:

- 1) consumers shall receive an annual statement of the composition of the energy sources; and
- 2) consumers shall have access to information on the environmental impact of the energy sources by referring to existing, publicly available electronic sources or other sources with more specifically defined contents.

Paragraph 3. The Minister of Transport and Energy may set rules specifying that the information referred to in paragraph 2 shall be provided by the electricity supplier for a specific supply or in another manner when supply is made from an electricity market or when it is imported from an enterprise outside the European Union or EEA countries.

Paragraph 4. The Minister of Transport and Energy may set rules on documentation of the information and on monitoring and verification of the information referred to in paragraphs 1 and 2.

Paragraph 5. The Minister of Transport and Energy may authorise an enterprise or specialised institution or organisation to carry out other tasks concerning the monitoring and verification referred to in paragraph 4.

Paragraph 6. If it is determined that the information required according to paragraphs 1 or 2 is incorrect or misleading, the Minister of Transport and Energy may order the party having submitted the information to correct it.

Paragraph 7. The Minister of Transport and Energy may set rules specifying that a party applying for guarantees of origin as referred to in paragraph 1 or providing the information referred to in paragraph 2 shall sustain any necessary costs arising from the monitoring and verification of the information's veracity.

Opting Out of Settlement Prices

§ 64. The Minister of Transport and Energy may set rules on conditions and deadlines for electricity producers' opting out of settlement prices and other benefits according to §§ 56-58 b. The Minister of Transport and Energy may set rules specifying that electricity producers shall pay any necessary costs arising from opting out of the settlement prices referred to, etc.

§ 65. (Repealed)

Takeover of Wind Turbines

§ 66. When so requested by a wind turbine owner, the Minister of Transport and Energy takes over the latter's wind turbine and its obligation to pay indebtedness on loans taken out to finance the wind turbine, if:

- 1) the wind turbine owner is able to document that it will be unable to pay the amounts outstanding on loans taken out to finance the wind turbine due to modifications to the settlement price as referred to in § 56 a, paragraph 4, or corresponding modification according to provisions hitherto in force; and
- 2) the loan for refinancing of the wind turbine was taken out before 29 April 1999.

Paragraph 2. The provisions in paragraph 1 apply *mutatis mutandis* to loans taken out by wind turbine owners which own part of a wind turbine. The provisions in paragraph 1 do not apply to utility-owned wind turbines.

Paragraph 3. When so requested, the system operator may take over a wind turbine previously taken over by the Minister of Transport and Energy against payment of the State's costs and may take over the State's obligations regarding the wind turbine. The system operator shall decommission, operate or sell the wind turbine at the conditions most favourable to electricity consumers.

Paragraph 4. The system operator may take into account the net costs it incurs with the takeover of wind turbines (cf. § 71). The system operator's revenue and expenses relative to wind turbines shall be kept in accounts separate from those kept for its other tasks.

Paragraph 5. The Minister of Transport and Energy may set rules on the nature and implementation of takeover schemes, including rules on discontinuing such schemes.

Connection, Etc., of Environmentally Friendly Electricity and CHP Plants

§ 67. When decentralised CHP plants and electricity-producing installations using waste or producing RES electricity are grid connected, the installation owners shall sustain only the costs which would have been incurred with connection to the 10-20 kV grid, irrespective of whether, according to objective criteria, the grid enterprise chooses another connection point. Any other costs, including for grid reinforcement and expansion, are sustained by the grid enterprise.

Paragraph 2. Owners of installations referred to in paragraph 1 who wish to supply electricity at a voltage greater than 10-20 kV shall sustain any costs arising from connection to a grid with the correspondingly higher voltage level. Any other costs, including for grid reinforcement and expansion, are sustained by the grid enterprise.

Paragraph 3. The provisions in paragraphs 1 and 2 do not apply to wind turbines.

§ 68. The Minister of Transport and Energy may set rules on the setting up of wind turbines and their connection to the electricity-supply grid, including rules on distribution of the costs arising from grid connection and those arising from the connection between the wind-turbine owner and consumers, as referred to in § 8, paragraphs 1 and 6. The Minister of Transport and Energy may set rules on wind turbine construction, installation, layout and operation as well as rules on approval of certificates and verification of the foregoing.

Paragraph 2. The Minister of Transport and Energy may set rules on payment to cover costs incurred in processing applications for grid connection.

Administrative Provisions

§ 68 a. The Minister of Transport and Energy may set rules specifying that collective electricity-supply enterprises administer the provisions in §§ 56-59 a, 63 a, 67 and 68, as well as rules set pursuant to these provisions and may make decisions regarding the matters regulated by these provisions.

Chapter 10

Electricity Prices and Terms

Electricity-Supply Enterprises' Prices and Terms

§ 69 a. The prices for services provided by collective electricity-supply enterprises are set taking into consideration the enterprises' necessary costs for the purchase of energy, paying salaries and wages, administration, maintenance, other operating costs and depreciation, including return on capital. Consideration is also given to expenditure incurred through operation of an enterprise for which a license is required. Necessary costs are understood as costs sustained by the enterprise on the basis of operationally cost-effective considerations with respect to maintaining efficient operation. When prices are set, consideration is also given to expenses incurred as a result of the enterprises' responsibility for liabilities assumed before 1 January 2000 or expenses arising from the providing of security for an electricity-producing enterprise wholly or partially owned by a given grid enterprise, when the providing of such security covers only liabilities which the electricity-producing enterprise assumed for the front-end financing of works begun before 29 April 1999. Prices for services provided by a collective electricity-supply enterprise may not increase as a result of payment made when the enterprise is taken over.

Paragraph 2. The Minister of Transport and Energy may set rules on calculation of operational depreciation and of the enterprises' necessary capital as well as rules on the rates that may be applied when including interest payment as referred to in paragraph 1. The Minister of Transport and Energy may set rules on the extent to which, when prices are set according to paragraph 1, other revenue which the enterprises accrue during operation of an activity for which a license is required shall be taken into consideration. The Minister of Transport and Energy may set rules on accounts separation between the various activities and on public electricity supply enterprises' keeping of accounts and budgeting, including that they shall prepare, have audited and make public annual accounts in accordance with the provisions in the Company Accounts Act.

§ 70. Prices for grid and transmission enterprises' services are set in accordance with the revenue frameworks referred to in paragraph 2 (cf. § 70 a). The frameworks are set with a view to covering the costs referred to in § 69 and incurred with efficient operation of the enterprises.

Paragraph 2. The Minister of Transport and Energy sets rules on revenue frameworks for all of the enterprises concerned for a specific number of years. As part of this regulation, it is ensured that the tariffs in set prices calculated as an average do not increase in relationship to the tariffs as of 1 January 2004 since interest will continue to be paid on capital which finances necessary new investments and such capital will be written off. Variances for the period between 1 January 2000 and 31 December 2003 do not affect the cap referred to in point 2.

Paragraph 3. Within the frameworks referred to in paragraph 2, the Energy Regulatory Authority sets annual income frameworks for each of the enterprises concerned with respect to the individual enterprise's potential for increased efficiency. The Minister may set rules specifying that, when the potential for increased efficiency is calculated, consideration shall be given to the quality of the transport of electricity and the associated services that the enterprise shall carry out as the holder of a license (cf. § 20, paragraph 1).

Paragraph 4. The Energy Regulatory Authority may grant dispensation from the frameworks it has set if so doing is necessary to enabling an enterprise to fulfil the obligations it has assumed in the license, pursuant to the Act or to provisions established pursuant to the Act.

Paragraph 5. Municipalities and counties may not grant subsidies to municipal grid activities which, as referred to in the provision in § 4, paragraph 1, are not carried out by limited-liability companies.

§ 70 a. For transmission activities carried out by Energinet Danmark and its wholly-owned subsidiaries pursuant to § 2, paragraphs 2 and 3, of the Act on Energinet Danmark, prices are set according to § 71.

§ 71. Energinet Danmark or its wholly-own subsidiaries may, in prices set for activities carried out pursuant to § 2, paragraphs 2 and 3 of the Act on Energinet Danmark, include necessary costs, including those arising from the purchase of energy, payment of salaries and wages, services, administration, maintenance, other operating costs and depreciation, including necessary return on capital. § 69 does not apply, apart from the last point in paragraph 1.

Paragraph 2. The Minister of Transport and Energy may set specific rules on definition of the costs which may be considered as necessary according to paragraph 1, as well as rules on setting the necessary interest and on the interest basis as referred to in paragraph 1.

§ 72. The price for electricity supplied by an enterprise in its ownership of an enterprise with a universal-service obligation to non-hourly-measured commercial consumers and non-commercial

consumers is made public by the enterprise with a universal-service obligation quarterly by the tenth business day before the beginning of a new quarter. The price shall correspond to the market-price level for corresponding consumer segments and supply conditions.

Paragraph 2. The price for electricity supplied by an enterprise in its ownership of an enterprise with a universal-service obligation to hourly-measured commercial consumers whose supply agreement with another supplier has been discontinued, is set at a price corresponding to the hourly price on the electricity spot-market in the price area from which the consumer buys its electricity plus a balancing and administration contribution.

Paragraph 3. Non-commercial, hourly-measured consumers shall be offered corresponding supply, as referred to in paragraph 2.

Paragraph 4. Consumers supplied without previous notification and whose total use amounts to a major part of an enterprise's supply in its ownership of an enterprise with a universal-service obligation may be required to pay a lump sum to cover unexpected balancing costs.

Paragraph 5. The Energy Regulatory Authority sets the maximum balancing and administration contribution that an enterprise with universal-service obligation may collect pursuant to paragraphs 2 and 3 as well as the maximum administration contribution that may be collected for the carrying out of purchase obligations in accordance with § 62.

Paragraph 6. The Energy Regulatory Authority is informed of the prices referred to in paragraph 1 according to rules set by it. Within seven days following the submission deadline, the Energy Regulatory Authority publishes an overview of the prices referred to in paragraph 1.

Paragraph 7. The Energy Regulatory Authority monitors the prices referred to in paragraphs 1-4. If it finds that the prices contravene paragraphs 1-4, it orders that the prices be modified immediately. Complaints concerning the Energy Regulatory Authority's decisions in this regard do not have suspensory effect.

§ 73. Collective electricity-supply enterprises shall set the prices for their services as specified according to §§ 69-72 according to reasonable, objective and non-discriminatory criteria with respect to the costs associated with individual purchaser categories. Price differentiation on the basis of a geographic definition is allowed only in special cases.

Paragraph 2. Collective electricity-supply enterprises shall publish their tariffs and the conditions for use of the electricity-supply grid.

§ 73 a. The prices and terms for use of transmission and distribution grids is set by the collective electricity-supply enterprises according to published methods approved by the Energy Regulatory Authority.

Paragraph 2. The Minister of Transport and Energy may set rules on the methods used to calculate and set the terms, including the tariffs.

§ 73 b. The energy sector's organisations may prepare standardised guidelines on setting of tariffs, conditions, etc. for grid and transmission enterprises' services. The Energy Regulatory Authority monitors such standards and guidelines according to rules it has set.

§ 74. Collective electricity-supply enterprises shall inform the Energy Regulatory Authority of the level of capital which, according to them, shall be the basis for calculation of interest in the prices referred to in § 69, paragraph 1.

Community Regulations on Prices and Conditions for Grid Access, etc.

§ 74 a. The provisions in §§ 69-71, 73 a and 74 do not apply to conditions covered by Article 6, paragraph 6, and Article 7 in European Parliament and Council Regulation (EEC) no. 1228/2003 of 26 June 2003 on conditions for grid access in connection with limit -exceeding electricity transfer.

Production Prices

§ 75. Prices and supply conditions for electricity-producing enterprises' sale of electricity are set by agreement.

Paragraph 2. Owners of CHP plants may not, when setting prices and supply conditions for district heating, take advantage of their position in order to distribute their costs in a way that could be considered as unfair to district-heating consumers.

Paragraph 3. Enterprises that produce electricity from waste incineration shall be financially self-supporting. Owners of waste-incineration installations may not, when setting the prices and conditions for waste treatment and for supply of district heating, take advantage of their position in order to distribute their costs in a way that could be considered as unfair to users of the waste-incineration installations or to district-heating consumers.

Paragraph 4. The Minister of Transport and Energy may set rules on the distribution referred to in paragraphs 2 and 3.

Price Monitoring, Setting of Rules

§ 76. Collective electricity-supply enterprises shall inform the Energy Regulatory Authority of:

- 1) the methods used to calculate or set conditions and terms for access to transmission and distribution grids, including tariffs (cf. § 73 a);
- 2) prices, tariffs and terms for services covered by the licenses, as well as the basis for the setting of the former, including supply agreements as stipulated by the Energy Regulatory Authority;
- 3) documentation of the separation of commercial activities;
- 4) documentation of accounts separation for activities;
- 5) calculation of capital prepared according to the rules in § 69, paragraph 2, and § 74;
- 6) accounts, budgets and other information as determined by the Energy Regulatory Authority to be used to set and verify the revenue frameworks referred to in § 70;
- 7) agreements on transit, including negotiated prices and conditions.

Paragraph 2. Enterprises with a universal-service obligation shall, as far as their obliged services are concerned, inform the Energy Regulatory Authority of their prices, charges and terms, as well as the basis for the latter.

Paragraph 3. Enterprises operated by Energinet Danmark or its wholly-owned subsidiaries, pursuant to § 2, paragraphs 2 and 3 of the Act on Energinet Danmark, shall inform the Energy Regulatory Authority, as far as system-operator and transmission services are concerned, of the prices, tariffs and conditions for these services, as well as of the basis on which the latter were set, including supply agreements made according to Energy Regulatory Authority decisions.

Paragraph 4. The Energy Regulatory Authority may also require owners of CHP plants to provide information on the sales prices for district heating and on the basis on which the latter were set.

Paragraph 5. The Energy Regulatory Authority may set rules on the notification referred to in paragraphs 1-4.

§ 77. If the Energy Regulatory Authority finds that the prices and supply conditions contravene the provision in this Act, it may order that these prices and conditions be modified.

Paragraph 2. If it proves impossible to solve an unreasonable situation in connection with negotiations on grid access when so ordered as referred to in paragraph 1, the Energy Regulatory Authority may order that an agreement be entered into according to the customary terms in force for similar agreements.

Paragraph 3. If the Energy Regulatory Authority finds that prices, conditions or agreements may give rise to an environmentally or cost-effectively inappropriate use of energy, it may, after negotiation with the parties concerned, require that such prices, conditions or agreements be modified.

Paragraph 4. The Energy Regulatory Authority may decide that a collective electricity-supply enterprise shall modify its consumer prices if the enterprise has acted in a way that may be considered as unfair to consumers. In this regard, the Energy Regulatory Authority may decide that the enterprise concerned shall make use of its profits, to an extent to be specified, in order to modify prices.

Chapter 11

The Energy Regulatory Authority

§ 78. The Minister of Transport and Energy, in order to exercise its supervisory and appeal function in the energy sector, establishes the Energy Regulatory Authority. The Energy Regulatory Authority does not handle civil disputes.

Paragraph 2. The Energy Regulatory Authority is an independent commission not subject to instruction from the Minister of Transport and Energy (cf. § 85 d).

Paragraph 3. The Minister of Transport and Energy sets rules specifying which tasks the Energy Regulatory Authority shall assume. The Minister of Transport and Energy may set rules specifying that the Authority shall carry out tasks vested in the Minister. The Minister of Transport and Energy approves the Authority's rules of procedure.

Paragraph 4. When so agreed to by the Energy Regulatory Authority, its chairperson may make decisions on the its behalf.

Paragraph 5. The Danish Competition Authority and the Danish Energy Authority make secretarial assistance available to the Energy Regulatory Authority and its chairperson. The secretariat may also function as a secretariat for a private board of appeal in the energy-supply field approved pursuant to Chapter 2 of the Consumer Complaints Act.

Paragraph 6. Expenses incurred with the establishment and operation of the Energy Regulatory Authority are paid by the enterprises that the Authority supervises according to this Act (cf. § 7).

Paragraph 7. The Minister of Transport and Energy may set specific rules on or make decisions concerning what is referred to in paragraph 5 and may also set specific rules on the payment referred to in paragraph 6, including the payment of a fee for the submission of complaints to the Energy Regulatory Authority.

Paragraph 8. The Minister of Transport and Energy may set specific rules on deadlines for complaints to the Energy Regulatory Authority.

Paragraph 9. The companies covered by the Acts on Electricity, Natural Gas and Heat Supply pay expenses incurred with the establishment and operation of an approved private board of appeal. The Minister of Transport and Energy may set specific rules on payment and collection, including on the covering of the costs referred to in § 17, paragraph 3, in the Consumer Complaints Act.

§ 78 a. The Minister of Transport and Energy may set rules on the Energy Regulatory Authority's tasks relative to the handling of cases concerning prices and conditions covered by European Parliament and Council Regulation (EEC) no. 1228/2003 of 26 June 2003 on conditions for access to the network for cross-border exchanges in electricity.

§ 79. The Energy Regulatory Authority consists of a chairperson and six other members appointed by the Minister of Transport and Energy. The members shall be independent of the energy sector's parties and have legal, economic, technical, environmental, commercial and consumer-related knowledge.

Paragraph 2. The Authority's members, as well as two permanent alternates, are appointed for four years. If a member or alternate resigns before the expiry of his/her mandate, new appointments apply only for the remaining part of the mandate.

§ 80. The Energy Regulatory Authority may handle and decide on cases on its own initiative or on the basis of information or complaint.

§ 81. The Energy Regulatory Authority may, without a court order and when duly appropriate to the execution of its tasks according to the Act:

- 1) on the premises of the party concerned, make itself familiar with and make copies of any information, including accounts, accounts materials, books, other commercial papers and electronically stored data; and
- 2) gain access to the premises of an enterprise or union.

Paragraph 2. The police shall provide assistance in the exercise of the powers referred to in paragraph 1.

§ 82. The Energy Regulatory Authority submits an annual report of its activities to the Minister of Transport and Energy.

Paragraph 2. The Energy Regulatory Authority establishes a publicly accessible registry of notified tariffs, conditions, technical requirements and standards and publishes a representative excerpt of this information at least once annually. The registry shall also contain information on the collective electricity-supply enterprises' equity in electricity-producing enterprises and other collective electricity-supply enterprises including information as to the ownership of equity in collective electricity-supply enterprises.

Paragraph 3. The information is publicly available. The Energy Regulatory Authority may, however, decide that certain information is not to be published when there are significant grounds for not doing so.

Paragraph 4. The Energy Regulatory Authority prepares and publishes periodic analyses of collective electricity-supply enterprises' revenue and costs as well as assessments of the enterprises' execution of their tasks.

Paragraph 5. The Energy Regulatory Authority takes any necessary steps in order to ensure transparency relative to prices, tariffs, discounts and terms. The Energy Regulatory Authority sets rules on the manner in which such information is made public by the enterprises, as well as rules on invoicing and on specification of costs to the receivers of transport and energy services.

Paragraph 6. The Energy Regulatory Authority may decide that an impartial expert shall examine an enterprise's accounts, contracts, etc. in the interests of preparing an expert report for its use.

§ 83. The Energy Regulatory Authority informs the Minister of Transport and Energy of matters which, according to it, are significant to the carrying out of its tasks, including the issuing, modification and verification of licenses.

Chapter 12

Duty of Disclosure, Monitoring, Confidentiality, Emergencies

§ 84. The Minister of Transport and Energy, the Energy Regulatory Authority and the Energy Complaints Commission may, in connection with the handling of a complaint or in connection with the inspection of enterprises requiring licenses, Energinet Danmark, other enterprises producing and trading electricity, as well as the latter's associated enterprises and the consumers concerned, obtain any information necessary to the execution of their tasks.

Paragraph 2. In order to ensure price transparency and supply security and in pursuance of energy- and environmental-policy objectives, including the preparation of the necessary basic data, the Minister of Transport and Energy may require collective electricity-supply enterprises and enterprises producing and trading electricity to prepare and submit specific information on their production and operation as well as concerning services they have purchased and sold. The same applies to information to be used in the preparation of national and international energy statistics. The Minister of Transport and Energy may set specific rules on the extent of the duty of disclosure and on compliance.

Paragraph 3. Collective electricity-supply enterprises and enterprises producing and trading electricity shall, when so requested, provide the system operator with any information necessary to the carrying out of the latter's tasks.

Paragraph 4. Collective electricity-supply enterprises shall, when so requested, provide other enterprises with sufficient information so as to ensure that grid and transmission activity can be carried out in a manner compatible with stable and efficient operation of the interconnected system.

Paragraph 5. Collective electricity-supply enterprises shall provide users of the interconnected system with any information necessary to efficient access to the system.

Paragraph 6. If a consumer does not have an electricity supplier, the grid enterprise concerned shall so inform the enterprises with a universal-service obligation.

Paragraph 7. Enterprises shall protect the confidentiality of commercially sensitive information received pursuant to paragraphs 1-4.

Paragraph 8. The Minister of Transport and Energy may set specific rules on enterprises' obligation to share information with respect to paragraphs 3-6.

Paragraph 9. Complaints regarding enterprises' duty of disclosure as referred to in paragraphs 3-4 and regarding rules issued in accordance with this Act may be submitted to the Energy Regulatory Authority.

§ 84 a. Collective electricity-supply enterprises shall respect the confidentiality of commercially sensitive information that they receive in connection with the execution of their activities and shall prevent information on their own activities which could be commercially advantageous from being passed on in a discriminatory manner.

Paragraph 2. Irrespective of the provision in paragraph 1, collective electricity-supply enterprises are obliged to pass on information to the Minister of Transport and Energy, the Energy Regulatory Authority and the Energy Complaints Commission in compliance with rules in force in this regard.

Paragraph 3. Complaints regarding collective electricity-supply enterprises' behaviour with respect to paragraphs 1 and 2 may be submitted to the Energy Regulatory Authority.

§ 85. Electricity-producing and trading enterprises shall prepare annual accounts in compliance with the Company Accounts Act. The annual accounts shall be publicly available.

Paragraph 2. The enterprises shall keep consolidated accounts for non-electricity related activities as they would if the activities concerned were carried out by separate companies.

Paragraph 3. The Minister of Transport and Energy may set specific rules on enterprises' keeping of accounts according to paragraphs 1 and 2.

§ 85 a. The Minister of Transport and Energy may set rules on monitoring and verification in connection with the charging and collection of amounts paid by electricity consumers according to the provisions in § 8, paragraphs 3 and 4.

Paragraph 2. The Minister of Transport and Energy may set specific rules on monitoring and verification of the issuing, allocation and trading of the RES certificates referred to in § 60. The rules may establish that electricity consumers are obliged to provide information necessary in order to verify that they have fulfilled their purchase obligations for RES certificates.

Paragraph 3. The Minister of Transport and Energy may set rules on documentation and the keeping of accounts relative to situations covered by paragraphs 1 and 2. Rules may also be set specifying that an electricity producer receiving settlement prices or RES certificates shall submit production data and other relevant information on production to a collective electricity-supply enterprise or to the central registry. Rules may be set specifying that electricity producers sustain any expenses arising from fulfilment of the requirements in this provision.

Paragraph 4. The Minister of Transport and Energy may set rules specifying that the verification and monitoring referred to in paragraphs 1 and 2 shall be carried out by grid enterprises or by the system operator.

Paragraph 5. The Minister of Transport and Energy may set rules specifying that the system operator shall set guidelines for the carrying out of verification and monitoring. The Minister shall approve the guidelines.

§ 85 b. Enterprises that, according to §§ 10 and 19 are required to obtain licenses, as well as the electricity-supply enterprises operated by Energinet Danmark or its wholly-own subsidiaries, pursuant to § 2, paragraphs 2 and 3 of the Act on Energinet Danmark, shall carry out the necessary planning and establish the necessary procedures in order to ensure electricity supply in emergencies and other extraordinary situations.

Paragraph 2. The system operator shall carry out the overall co-ordination of planning and operational tasks concerning the emergencies referred to in paragraph 1.

Paragraph 3. The Minister of Transport and Energy may set rules on the carrying out of the tasks referred to in paragraphs 1 and 2.

Paragraph 4. The Minister of Transport and Energy may set rules on the carrying out of inspections of the emergency preparations carried out according to paragraphs 1 and 2, including on enterprises' submission of material as a basis for inspections and on the Authority's powers in relationship to the enterprises and to complaint procedures. The rules may establish that the system operator shall carry out the inspection of the emergency preparations referred to in paragraph 1.

Orders

§ 85 c. The Minister of Transport and Energy and the Energy Regulatory Authority may order that actions which contravene this Act, rules set or decisions made pursuant to this Act or to European Parliament and Council Regulation (EEC) no. 1228/2003 of 26 June 2003 on the conditions for access to the network in connection with cross-border exchanges in electricity, be rectified immediately or within a specific deadline.

§ 85 d. The Minister of Transport and Energy may order any necessary modifications if rules, etc., set by the system operator pursuant to this Act, or the methods on which rules, etc. (cf. § 73 a) are established, contravene provisions of this Act or rules issued pursuant to it.

Paragraph 2. The Minister of Transport and Energy's orders on modifications to rules or methods according to paragraph 1 may not be brought before the Energy Complaints Commission.

Chapter 13

Penalty Provisions

§ 86. If any party neglects to comply in good time with an order issued by the Energy Regulatory Authority pursuant to § 77, the latter may impose daily or weekly fines on the party concerned as a means of compulsion.

Paragraph 2. A right of distraint applies to the fines referred to in paragraph 1.

§ 87. Unless a more severe penalty is applicable according to other legislation, the following are penalised with a fine:

- 1) any party failing to obtain a license for production, grid or transmission activity or activity subject to a universal-supply obligation as referred to in §§ 10, 19 and 33;
- 2) any party failing to obtain a license to establish and operate a grid or installation as referred to in §§ 11, 13, 16, 21, 22 a and 23;
- 3) any party disregarding the terms in a license or permit issued according to provisions in points 1 and 2;
- 4) any party failing to notify as specified in § 35;
- 5) any party failing to carry out the registration, reporting and transfer as referred to in § 37;
- 6) any party failing to comply with orders or prohibitions issued pursuant to this Act, including the order to rectify illegal actions;
- 7) any party failing to submit the information as specified in Chapter 12;
- 8) any party submitting to the Minister of Transport and Energy, the Energy Regulatory Authority or the Energy Complaints Commission incorrect or misleading information or, after being so requested, fails to submit information;
- 9) any party contravening § 84, paragraph 5, or § 84 a.

Paragraph 2. Unless a more severe penalty is applicable according to other legislation, any party contravening the provisions in the European Parliament and Council Regulation (EEC) on the conditions for access to the network for cross-border exchanges in electricity is penalised with a fine.

§ 88. The rules issued pursuant to this Act may stipulate that a fine be imposed for contravention of the provisions set in those rules or in terms and orders issued pursuant to them.

Paragraph 2. Companies, etc., (legal persons) may be held criminally liable according to the provisions in Chapter 5 of the Criminal Code.

Chapter 14

Complaints, the Energy Complaints Commission, etc.

§ 89. The Energy Complaints Commission handles complaints arising from decisions made by the Minister of Transport and Energy or by the Energy Regulatory Authority pursuant to this Act or to rules issued pursuant to it. Within the limitations deriving from the European Commission's powers, the Energy Complaints Commission deals with complaints arising from decisions made by the Minister of Transport and Energy or by the Energy Regulatory Authority regarding the European Parliament and Council regulation (EEC) no. 1228/2003 of 26 June 2003 on conditions for access to the network for cross-border exchanges in electricity.

Paragraph 2. Decisions made by the Minister of Transport and Energy and the Energy Regulatory Authority pursuant to this Act or to rules issued pursuant to it may not be brought before administrative authorities other than the Energy Complaints Commission referred to in paragraph 1. Decisions may not be brought before a court before a final administrative decision has been made.

Paragraph 3. Complaints shall be submitted in writing within four weeks of notification of the decision in question.

Paragraph 4. Subsequent to agreement with the Energy Complaints Commission, its chairperson may make decisions on its behalf in cases dealt with according to this Act or to rules issued pursuant to it.

§ 89 a. Any person with a significant and individual interest in a decision may appeal that decision to the Energy Complaints Commission with regard to the environmental aspects of the decision pursuant to § 16 if the decision is also covered by § 17.

Paragraph 2. Local and national associations and organisations the principal objective of which is to protect nature and the environment may appeal the decisions referred to in paragraph 1. The same applies to local and national associations and organisations the objective of which is to pursue significant recreational interests when a decision affects such interests.

Paragraph 3. No later than the date on which local and national associations and organisations make a complaint to the Energy Complaints Commission, they shall also submit their statutes so as to demonstrate that they are in fact local or national and that their objectives meet the requirements in paragraph 2.

Paragraph 4. Complaints made pursuant to paragraph 1 and 2 shall be submitted in writing within four weeks of the decision in question having been made public. If the complaint deadline falls on a Saturday or a holiday, the deadline is extended to the following business day.

Paragraph 5. A permit that has been granted may not be used before the time-limit for complaints has expired.

Paragraph 6. Complaints regarding permits for projects covered by paragraph 1 do not have suspensory effect unless decided otherwise by the Energy Complaints Commission.

Paragraph 7. The Energy Complaints Commission's decisions may not be appealed to any other administrative authority.

§ 90. The Minister of Transport and Energy may set rules on:

- 1) the right to appeal decisions made by the Minister of Transport and Energy or by the Energy Regulatory Authority pursuant to this Act or to rules issued pursuant to it, including that such decisions may not be brought before the Energy Complaints Commission and that decisions made by an institution under the Ministry of Transport and Energy or another authority in which the Minister, pursuant to § 92, has delegated his/her powers, may not be brought before the Minister of Transport and Energy; and
- 2) the payment of a fee for the submission of a complaint to the Energy Complaints Commission.

§ 91. When decisions are made or rules are issued pursuant to this Act, the representatives on the Energy Complaints Commission appointed on the recommendation of the Confederation of Danish Industry and the Agriculture Council of Denmark, are replaced by two members with particular economic or technical expert knowledge with respect to electricity supply and are appointed by the Minister of Transport and Energy.

§ 92. The Minister of Transport and Energy may authorise an institution established under the Ministry or another authority to exercise the powers vested in the Minister by this Act.

Chapter 14 a

Particular Economic Regulation, etc., of Certain Enterprises

§ 92 a. Before 1 March 2005, grid and transmission enterprises may inform the Minister of Transport and Energy in writing that they wish to be covered by the provisions in this chapter. This submission shall state that the enterprise concerned is subject to the provisions in this chapter as of 1 January 2005.

Paragraph 2. Enterprises that, by 1 March 2005, have not made the submission referred to in paragraph 1, forfeit any rights to collect amounts owed for variances which arose between 1 January 2000 and 31 December 2003. This does not, however, apply to variances that can be liquidated according to the rules in the regulation on revenue frameworks for grid enterprises and regional transmission enterprises covered by the Act on Electricity Supply.

Paragraph 3. The provisions in §§ 69, 70 and 74 and § 76, paragraph 1, point 5 of the Act on Electricity Supply and § 4, paragraphs 6 and 8 of Act no. 494 of 9 June 2004 on amendment of the Acts on Electricity Supply, Heat Supply and Natural Gas Supply (assurance of independence in the overall infrastructure, modifications to basic concepts, private board of appeal in the energy-supply sector, etc.) do not apply to enterprises that have made the submission referred to in paragraph 1 by 1 March 2005.

§ 92 b. The provisions in §§ 92 c – 92 k apply only to enterprises that have made the submission referred to in § 92 a paragraph 1 (cf. § 92 i) by 1 March 2005.

§ 92 c. Prices for enterprises' services are set in relationship to the enterprises' costs for the purchase of energy, payment of wages and salaries, services, administration, maintenance, other operating costs and depreciation, including return on capital. When the prices are set, consideration is also given to expenses incurred as a result of enterprises' liabilities pursuant to § 92 k paragraph 3, or for other

electricity-supply enterprises' liabilities assumed before 30 December 1999. Prices for enterprises' services may not increase as a result of payment made when the enterprises are taken over.

Paragraph 2. The Minister of Transport and Energy may set rules on the calculation of operation-related write-offs and for calculation of enterprises' capital, including investment capital, as well as on the rates which may be used to calculate the interest referred to in paragraph 1. The Minister of Transport and Energy may set specific rules on accounts separation between various activities and rules on the enterprises' keeping of accounts and budgeting, including that they shall prepare, have audited and make public annual statements in accordance with the provisions in the Company Accounts Act.

§ 92 d. Prices for grid and transmission enterprises' services are set in accordance with the revenue frameworks referred to in paragraph 2. The frameworks are set with a view to covering the costs referred to in § 92 c and incurred with efficient operation of the enterprises.

Paragraph 2. The Minister of Transport and Energy sets rules on revenue frameworks for all of the enterprises concerned for a specific number of years. Within these frameworks, the Energy Regulatory Authority sets the annual revenue framework for each of the enterprises concerned.

Paragraph 3. The Energy Regulatory Authority may grant dispensation from the frameworks it has set if so doing is necessary to enabling an enterprise to fulfil the obligations it has assumed in a license, according to the Act or to provisions established pursuant to the Act.

Paragraph 4. All of an enterprise's revenue shall be used to cover the expenditure referred to in § 92 c paragraph 1. This does not, however, apply to surpluses in the form of return on investment capital and extraordinary efficiency gains in relation to the revenue framework. The Minister of Transport and Energy may set rules specifying the definition of extraordinary efficiency gains and may set the relative levels.

Paragraph 5. Municipalities and counties may not grant subsidies in respect of municipal grid activity which, pursuant to the provision in § 4, paragraph 1, are not carried out by limited-liability companies.

§ 92 e. Enterprises shall inform the Energy Regulatory Authority of the amount of the capital which they intend to be the basis for establishing the interest which, pursuant to § 92 c, paragraph 1, may be included in its prices. Enterprises shall separately calculate the amount of any investment capital.

Paragraph 2. On the basis of the information submitted as referred to in paragraph 1, the Energy Regulatory Authority calculates, in relationship to an enterprise's financial position and turnover, the level of capital that forms the basis for setting the interest which may be included and the amount of any investment capital.

Paragraph 3. Irrespective of the provisions in §§ 92 c and 92 d, enterprises and their owners may freely dispose of the capital and revenue which they, pursuant to the Act on Electricity Supply in force until 30 December 1999, could freely dispose of as they saw fit.

§ 92 f. Enterprises shall notify the Energy Regulatory Authority of the calculation of investment capital and capital on which interest is to be paid (cf. § 92 e).

Paragraph 2. The Energy Regulatory Authority may set rules on the notification referred to in paragraph 1.

§ 92 g. As of 1 January 2000, in accordance with rules set by the Minister of Transport and Energy, enterprises shall prepare a statement of unused reserves undertaken in accordance with the Act on Electricity Supply in force until 30 December 1999, variances for the period between 30 December 1999 and other capital situations. Enterprises shall thereafter prepare a financial opening balance in a

format complying with rules set by the Minister of Transport and Energy and that shall be the basis for future price setting according to the provisions in this Chapter. The statement and the financial opening balance shall be submitted to the Energy Regulatory Authority before the deadline set by it.

Paragraph 2. Within a deadline set by the Energy Regulatory Authority, enterprises shall submit a report describing the manner in which unused reserves made in accordance with the Act on Electricity Supply in force until 30 December 1999, variances for the period between 30 December 1999 and other assets and liabilities included in the financial opening balance referred to in paragraph 1 will be equalised in future prices.

Paragraph 3. The Energy Regulatory Authority decides the whether the statements and financial opening balances referred to in paragraph 1 may be approved. Furthermore, the Energy Regulatory Authority decides the extent to which enterprises' reports as referred to in paragraph 2 may be used as the basis for equalisation of reserves, etc., in future prices.

Paragraph 4. If an enterprise has not fulfilled its obligations as referred to in paragraphs 1 and 2 within the deadline set by the Energy Regulatory Authority, the latter determines the statement and the financial opening balance.

§ 92 h. A grid enterprise may not either wholly or partially relinquish its equity in an electricity-producing enterprise to:

- 1) an enterprise in which the grid enterprise directly or indirectly holds equity;
- 2) an enterprise that directly or indirectly holds equity in the grid enterprise;
- 3) an enterprise that directly or indirectly either wholly or partially owns an enterprise that also directly or indirectly holds equity in the grid enterprise.

Paragraph 2. The Minister of Transport and Energy may grant dispensation from the provisions in paragraph 1.

§ 92 i. Electricity producing and trading enterprises and their subsidiaries may not together:

- 1) own more than 15% of the capital of an enterprise covered by this Chapter; or
- 2) own a determining influence by virtue of particular voting rights in such an enterprise's governing bodies.

Paragraph 2. Agreements on transfer of capital shareholding and agreements or regulatory decisions on the allocation of voting rights that contravene paragraph 1 are invalid.

§ 92 j. The issuing of a license to a grid enterprise is conditional on direct or indirect equity in electricity-producing enterprises, transmission enterprises and enterprises with a universal-service obligation that, on 29 April 1999, were owned by the grid enterprise or by enterprises directly or indirectly owning equity in the grid enterprise, being transferred to the grid enterprise so that it directly owns the equity concerned. It is similarly a condition for the issuing of a license to a transmission enterprise that equity in this enterprise is transferred to the grid enterprise/s concerned in accordance with paragraph 1.

Paragraph 2. The Minister of Transport and Energy may grant dispensation from the provision in paragraph 1 if so doing is made necessary by particular conditions.

§ 92 k. An enterprise may not grant loans or provide security for other enterprises, including other collective electricity-supply enterprises.

Paragraph 2. The provision in paragraph 1 does not apply to the extent that only by means of loans granted or security provided is the capital referred to in § 92 e, paragraph 3 available.

Paragraph 3. The provision in paragraph 1 does not apply to the extent that a grid enterprise only provides security in favour of an electricity-producing enterprise that is wholly or partially owned by the grid enterprise when the provision of security only covers liabilities which the electricity-producing enterprise assumes with a view to front-end financing of installation works begun before 29 April 1999.

Chapter 15

Entry into Force, Repeal and Transitional Provisions

§ 93. The Minister of Transport and Energy sets the date on which the Act enters force. The Minister may determine that parts of the Act enter force before other parts.ⁱⁱ
paragraph 2. § 8, paragraph 5, enters force as of 16 August 1999.

§ 94. The Minister of Transport and Energy may repeal the Act on Electricity Supply (cf. Consolidated Act no. 632 of 1 July 1996). The Minister may determine that parts of the Act are repealed before other parts.

§ 95. The Minister of Transport and Energy may repeal Chapter 2 of the Act on Use of Renewable Energy-Sources, etc. (cf. Consolidated Act no. 837 of 7 October 1992) as last amended by Act no. 427 of 10 June 1997.

§ 96. The Minister of Transport and Energy may set rules specifying that rules set pursuant to the Acts referred to in §§ 94 and 95 remain in force until replaced by rules set pursuant to this Act. Lack of compliance with these rules is penalised according to rules hitherto in force.

§ 97. An enterprise that, as of when the Act enters force, lawfully exercises activity and which, according to this Act, shall be licensed to do so, has the right to a license for its activity, if:

- 1) it declares that it will fulfil the obligations it assumes according to the provisions of the Act and in the license;
- 2) its statutes do not contravene the provisions in this Act or rules issued pursuant to it and can be approved by the Minister of Transport and Energy; and
- 3) it fulfils the requirements set in this Act for the granting of a license.

§ 98. Approvals for the establishment of or modifications to production installations and transmission grids and licenses for electricity production and transmission given according to the provisions of the Act on Electricity Supply hitherto in force are maintained in accordance with substance and duration.

Paragraph 2. An enterprise requiring a license may, when it submits the required application for a license within a deadline set by the Minister of Transport and Energy, continue its activity in the meantime without a license until the Minister of Transport and Energy has decided on its application, on the condition that the applying enterprise complies with the Act's provisions concerning its activity.

Paragraph 3. The Minister of Transport and Energy sets the date as of which the requirement for licenses for grid enterprises and enterprises with a universal-service obligation enters force.

§ 99. The Minister of Transport and Energy may set transitional provisions by means of which the legal status hitherto in force is maintained during a transitional period with the modifications made necessary by this Act as far as enterprises covered by § 98, paragraphs 2 and 3 are concerned.

§ 100. (Repealed)

§ 101. Enterprises carrying out electricity-producing activity covered by the Act on Electricity Supply hitherto in force shall, when this Act enters force and in compliance with specific provisions set by the Minister of Transport and Energy, prepare a statement of the unused reserves made in accordance with the Act on Electricity Supply hitherto in force, variances for the period before this Act entered force and other situations.

Paragraph 2. The statement referred to in paragraph 1 shall provide the basis for the enterprises' financial opening balances in connection with transition to price setting as referred to in § 75.

Paragraph 3. Enterprises covered by paragraph 1 which, as of when the Act enters force, carry out activity involving waste incineration shall, according to guidelines set by the Minister of Transport and Energy, draw up a separate statement of the financial status of their waste-incineration installations.

Paragraph 4. The statement referred to in paragraph 3 shall provide the basis for the financial opening balance in connection with separating waste-incineration activity as an independent activity pursuant to § 48. The statement and the financial opening balance shall be submitted to the Minister of Transport and Energy before a deadline set by the Minister.

Paragraph 5. The Minister of Transport and Energy may give approval to an owner, when drawing up the financial opening balance for waste-incineration activities as referred to in paragraph 3, to stipulate that the waste-incineration installation shall pay an amount corresponding to necessary loan capital resulting from the assets being increased because reserves previously provided in respect of the price of electricity are removed from the statement for the company from which the waste-incineration installation is separated.

Paragraph 6. The Minister of Transport and Energy decides whether the statements and financial opening balances referred to in paragraphs 1 and 3 may be approved. On this basis, the Minister of Transport and Energy decides which obligations will be imposed on the electricity-producing enterprises after the transition to price-setting as referred to in § 75.

§ 102. If, as a result of this Act, an enterprise covered by the Act on Electricity Supply hitherto in force has to be divided into several independent legal entities, such division shall be carried out so that the assets and liabilities assigned to each entity are those which naturally are connected to the activity it is to carry out. In relationship to the enterprise's liabilities, the subdivision has no effect with relationship to the enterprise's creditors.

Paragraph 2. The Minister of Transport and Energy may set rules ensuring compliance with the provision in paragraph 1 in connection with the setting of enterprises' financial opening balances pursuant to § 101.

§ 103. When this Act enters force or at a later date set by the Minister of Transport and Energy, cases which are being handled by the Energy Regulatory Authority, the Electricity Price Commission or the Competition Complaints Commission shall be transferred to the authority which, according to this Act, is to handle such cases if brought forward after this Act entered force.

§ 104. The following amendments are made to the Act on Municipal Equalisation and General Subsidies to Municipalities and Counties (cf. Consolidated Act no. 571 of 4 July 1997, as last amended with § 5 of Act no. 117 of 2 March 1999):

1. In § 10, paragraph 6, and § 17, paragraph 6, "Electricity Price Commission" is amended to "Energy Regulatory Authority".
2. In § 10, paragraph 6, and § 17, paragraph 6, "§ 10 b" is amended in two places to "§ 37".

§ 105. Civil servants employed in a municipal enterprise covered by this Act when the municipality establishes the companies made necessary pursuant to this Act for continuance of its activities are obliged to accept employment in one or more such companies, while retaining their contractual status as a municipal civil servant.

Paragraph 2. The companies referred to in paragraph 1 offer the civil servants referred to in paragraph 1 employment in the companies concerned.

Paragraph 3. The municipality continues to pay the salaries, etc., and pension contributions in accordance with rules established in this regard for those civil servants who do not wish to transfer employment according to paragraph 2.

Paragraph 4. A civil servant who, with reference to paragraph 3, chooses to remain employed by the municipality and who, pursuant to paragraph 1, is obliged to accept employment with a company made necessary pursuant to this Act, is not entitled to temporary unemployment allowance, availability allowance or a pension in this connection. The civil servant is obliged to accept the changes to his/her duties as a result of the establishment of the companies made necessary pursuant to this Act.

Paragraph 5. When operations are taken over, the companies concerned refund the municipalities the salaries, etc., paid out with respect to paragraph 3 and pay, upon agreement with the municipality, the current pension contributions to the municipality in respect of the pensionable age the civil servant has reached as of the takeover date.

Paragraph 6. Civil servants loaned out to one or more of the companies referred to in paragraph 1 have the right to participate an equal footing with the employees of the companies concerned in the election of staff representatives for the company's board of directors and are equally eligible to stand for election as such, provided that under the general provisions of the Public Companies and Private Companies Acts the right to elect staff representatives exists in the company concerned.

§ 106. The Minister of Transport and Energy may set transitional rules.

§ 107. The act does not apply to the Faeroe Islands or to Greenland.

Act no. 1110 of 29 December 1999 amending the Act on Electricity Supply, with reference to § 8, paragraph 6, § 46, paragraph 3, § 57, paragraph 1, points 1-3, § 57, paragraph 2, § 58, paragraph 3, § 69, paragraph 1, point 2, § 70, paragraph 4, point 1, § 71, paragraph 2, point 1, and § 102, paragraph 2 and 3, contains the following provisions regarding entry into force:

§ 2

The Minister of Transport and Energy sets the date on which the Act enters force. The Minister may determine that parts of the Act enter force before other parts.ⁱⁱⁱ

Act no. 447 of 31 May 2000 amending certain environmental laws, which inserts § 89 a, contains the following provisions regarding entry into force:

§ 14

Paragraph 1. The Act enters force on 15 September 2000, (cf. paragraph 2-4).

Paragraph 2. The Act's rules on the right to appeal decisions apply to cases in which a decision has been taken at first instance. The rules on appeal of decisions denying applications for right of access to documents according to § 4, paragraph 5, of the Act on Right of Access to Documents Containing Environmental Information as amended by § 1, point 10 of the Act, apply equally to applications denied after the Act enters force.

Paragraph 3. § 2, paragraph 3, of the Act on Right of Access to Documents Containing Environmental Information as formulated in § 1, point 4, of the Act does not apply to material obtained before the Act enters force provided that the party that submitted the material was not or could not have been obliged to supply the material and if the party concerned has not stated that he/she agrees to its release.

Paragraph 4. § 2, paragraph 4, of the Act on Right of Access to Documents Containing Environmental Information as formulated in § 1, point 4, does not apply to information on emissions of which the authorities gained possession before the Act enters force.

Act no. 448 of 31 May 2000 amending the Act on Electricity Supply, which inserts § 8 a, § 24, paragraph 3, and § 59, paragraphs 4 and 5, contains the following provisions regarding entry into force:

§ 2

The Minister of Transport and Energy sets the date on which the Act enters force. The Minister may decide that parts of the Act enter force before other parts.^{iv}

Act no. 1277 of 20 December 2000 amending the Act on Electricity Supply and the Act amending the Electricity-Production Subsidy Act with reference to § 9, paragraph 1, points 1, 3 and 4, § 17, paragraphs 5 and 6, § 21, paragraphs 2 and 3, § 23, paragraph 3, point 2, § 26, paragraphs 2 and 3, §§ 27 a – 27 d, § 28, paragraph 3, point 1, § 31, § 44, paragraphs 3 and 4, § 68, paragraph 2, § 78, paragraph 8, and § 89, paragraphs 3 and 4, contains the following provisions regarding entry into force:

§ 3

The Minister of Transport and Energy sets the date on which the Act enters force. The Minister may determine that parts of the Act enter force before other parts.^v

Act no. 478 of 7 June 2001 amending the Act on Electricity Supply and the Environmental Protection Act, with reference to § 8, paragraphs 6 and 7, § 8 a, paragraphs 3, 7 and 8, § 58, paragraph 3, § 59, paragraph 1, § 59 a, § 68, paragraph 2, § 84, paragraph 2, § 85 a, and § 93, paragraph 2, contains the following provisions regarding entry into force:

§ 3

Paragraph 1. The Minister of Transport and Energy sets the date on which the Act enters force. The Minister may determine that parts of the Act enter force before other parts.^{vi}

Paragraph 2. The provision in § 8, paragraph 6, of the Act on Electricity Supply as formulated in § 1, point 1, of this Act and § 59 a, paragraph 1 and 3, of the Act on Electricity Supply as formulated in § 1, point 8, of this Act enters force as of 1 January 2001.

Paragraph 3. The provision in § 8, paragraph 7, of the Act on Electricity Supply as formulated in § 1, point 2, of this Act enter force as of 1 January 2000.

Act no. 316 of 22 May 2002 amending the Act on Electricity Supply and certain other energy legislation, with reference to § 22, paragraph 1, points 7 and 8, § 27 c, § 27 e, § 59, paragraphs 2 and 5, § 59 a, paragraph 2, § 66 and § 85, contains the following provisions regarding entry into force:

§ 6

Paragraph 1. The Minister of Transport and Energy sets the date on which the Act enters force. The Minister may determine that parts of the Act enter force before other parts.^{vii}

Paragraph 2. § 27 e as inserted in § 1, point 5, of the Act enters force the day following publication in the *Danish Law Gazette*.^{viii}

Act no. 1091 of 17 December 2002 amending the Act on Electricity Supply and the Electricity-Production Subsidy Act, with reference to § 8, paragraph 6 and 7, § 8 a, paragraph 3, § 9, paragraphs 1 and 3, § 22 a, § 28, paragraphs 2 and 3, § 51, paragraph 3, § 57, paragraph 1, point 1, §§ 59 a-59 d, § 63 a, §§ 64-66, § 68, paragraph 2, § 84 a, § 85 a, paragraph 1, and § 87, points 2, 6 and 7, contains the following provisions regarding entry into force:

§ 3

The Act enters force on 1 January 2003.

Act no. 452 of 10 June 2003 amending the Act on Electricity Supply, the Act on Electricity-Production Subsidy, the Act on Heat Supply and the Act on Municipal Equalisation and General Subsidies to Municipalities and Counties, with reference to § 12 a, § 21 a, § 22, paragraph 1, point 6 and 7, § 37, § 69, paragraph 1, § 73, § 87, point 4, contains the following provisions regarding entry into force:

§ 5

Paragraph 1. The Act enters force the day following publication in the *Danish Law Gazette*.^{ix}

Paragraph 2. § 1, points 5, 6 and 8, and §§ 3 and 4 apply to distributions regarding which binding decisions are made and for payment on surrender carried out by binding agreement entered into on 20 February 2003 or later.

Paragraph 3. Binding measures taken before 20 February 2003 are dealt with according to the provisions hitherto in force in § 37 of the Act on Electricity Supply, § 23 e of the Act on Heat Supply and § 10, paragraphs 6 and 7, and § 17, paragraph 6, of the Act on Municipal Equalisation and General Subsidies to Municipalities and Counties, unless the municipality or the county at the latest in its report to the Energy Regulatory Authority gives notice that the measures are covered by the provisions in § 1, point 5, 6 and 8, and §§ 3 and 4 of this Act.

Paragraph 4. The first report according to § 37, paragraph 4 of the Act on Electricity Supply, as formulated in § 1, point 5, of this Act and § 23 e, paragraph 4, of the Act on Heat Supply as formulated in § 3, point 4, of this Act shall be received no later than 1 February 2004 covering the period between 20 February 2003 and 31 December 2003.

Act no. 458 of 10 June 2003 amending the Act on Gas Installations and Installations in Connection with Water- and Drainage Pipes, the Act on Power Plants and Electrical Material and various other

Acts with reference to § 22, paragraph 1, point 8, contains the following provisions regarding entry into force:

§ 9

The Act enters force on 1 January 2004.

Act no. 1232 of 27. December 2003 amending the Electricity-Production Subsidy Act and the Act on Electricity Supply, with reference to § 27 b, paragraph 3, contains the following provisions regarding entry into force:

§ 3

The Act enters force on 1 January 2004.

Act no. 494 of 9 June 2004 amending the Act on Electricity Supply, the Act on Natural Gas Supply and the Act on Heat Supply, with reference to §§ 2 a, 3, 5, 6, 6 a and 7, § 9, paragraph 1, points 1 and 2, § 19, paragraph 1, § 20, paragraph 1, point 3, § 20 a, § 21, paragraphs 1 and 3, § 21 a, § 22, paragraph 1, point 3 and points 7-11, § 22, paragraphs 4 and 5, § 23, paragraph 3, § 24, paragraphs 1 and 2, § 25, § 26 a, § 27, paragraph 1, § 27 c, paragraphs 10 and 11, § 27 d, paragraphs 2 and 3, § 28, paragraph 2, points 12 and 13, § 28 a, § 28 b, § 30, paragraph 2, § 32, § 33, paragraph 1, §§ 34, 35, 35 a, 36, 38, §§ 40-46, 47, paragraph 1, § 49, § 50, paragraph 1, § 54, paragraphs 6-8, § 63 a, § 64, § 69, paragraphs 1 and 2, § 70, paragraphs 2-5, § 71, paragraphs 1 and 2, § 72, § 73, paragraph 2, §§ 73 a, 73 b, 74 and 74 a, § 75, paragraph 1, § 76, § 78, paragraphs 1, 2, 5 and 9, § 78 a, § 82, paragraph 5, § 84, § 84 a, § 85, paragraph 1, § 85 b, paragraph 4, § 85 c, § 85 d, § 87, paragraph 1, point 4, § 87, paragraph 2, § 89, paragraph 1, § 97, paragraphs 2 and 3, § 100 and § 102, paragraphs 2 and 3, contains the following provisions regarding entry into force:

§ 4

Paragraph 1. The Minister of Transport and Energy sets the date on which the Act enters force. The Minister may determine that parts of the Act enter force before other parts.^x

Paragraph 2. Rules set with respect to § 63 a, paragraphs 4 and 5 of the Act on Electricity Supply hitherto in force, remain in force until they are replaced by rules set according to this Act.

Paragraph 3. Enterprises that, by 21 April 2004 had not met the requirements in §§ 36 and 38 and § 97, paragraphs 2 and 3 of the Act on Electricity Supply, are moved forward to entry into force of § 1, points 37, 38 and 81 on this Act on the revoking of §§ 36 and 38 and § 97, paragraphs 2 and 3 of the Act on Electricity Supply, as if they fulfilled the requirements in the provisions referred to.

Paragraph 4. Adjustment of the prices of enterprises with a universal-service obligation for the period from 2002 until this Act's price regulation of enterprises with a universal-service obligation enters into force is done according to the rules hitherto in force. The individual enterprise's prices are adjusted (cf. § 72, paragraph 1, of the Act on Electricity Supply) and included in the Energy Regulatory Authority's determination of the individual enterprise's balancing and administration contributions (cf. § 72, paragraphs 2 and 3 of the Act on Electricity Supply). This adjustment will be discontinued no later than 2006. Electricity-trading contracts and any associated contracts which had been entered into or are entered into with respect to rules hitherto in force and which extend into the period at which the Act's amended price regulation enters force may, when the Energy Regulatory Authority is so informed no later than 30 days after this Act is passed, be included in the individual enterprise's prices (cf. § 72, paragraph 1, of the Act on Electricity Supply). Notification shall be given of any electricity-trading contracts and any associated contracts entered into by

enterprises with a universal-service obligation after this Act is passed and until this Act's price regulation enters force as soon as the contract concerned are entered into.

Paragraph 5. The Minister of Transport and Energy may set special transitional rules on modifications to grid and transmission enterprises' revenue frameworks from 1 January 2004 until the date on which the rules on revenue frameworks pursuant to §§ 69, 70 and 74 of the Act on Electricity Supply enter force.

Paragraph 6. Cases being dealt with by the Energy Complaints Commission or the Energy Regulatory Authority regarding calculation of grid and transmission enterprises' capital situation in the period between 1 January 2000 and 31 December 2003 according to the previous § 74, paragraph 2, of the Act on Electricity Supply and cases regarding approval of financial opening balances according to the previous § 100, paragraph 3 of the Act on Electricity Supply are closed.

Paragraph 7. Cases being dealt with by the Energy Complaints Commission or the Energy Regulatory Authority regarding calculation of grid and transmission enterprises' assets and liabilities are finalised according to rules hitherto in force.

Paragraph 8. Grid and transmission enterprises' future revenue shall respect the cap set in § 70, paragraph 2, of the Act on Electricity Supply as formulated in § 1, point 55, of this Act. This cap is not affected by the enterprises' financial situation in the period between 1 January 2000 and 31 December 2003, including if enterprises' revenue has been greater or less than their previous revenue frameworks for the same period.

Paragraph 9. The Minister of Transport and Energy may set specific transitional rules in connection with the setting up of a private board of appeal in the energy-supply sector.

Paragraph 10. (Omitted)

Paragraph 11. (Omitted)

Paragraph 12. Directors, deputy directors, assistant directors and the senior staff of an electricity-supply grid enterprise, electricity-transmission enterprise or system operator that, as of 21 April 2004, lawfully exercised this activity at the same time as they directly or indirectly participated in the operation or management of an associated electricity producing or trading enterprise or of an associated enterprise that directly or indirectly owns such enterprises, may, irrespective of the provisions in § 45 of the Act on Electricity Supply as formulated in § 1, paragraph 44, of this Act, continue both activities until three years after the Act enters force. Persons who, as of 21 April 2004, held positions on the board of directors of an electricity-supply grid enterprise, electricity-transmission enterprise or system operator at the same time as they directly or indirectly participated in the operation or management of an associated electricity producing or trading enterprise may, irrespective of the provisions in § 45, continue with this activity until the electoral period which began on 21 April 2004 expires.

Paragraph 13. (Omitted)

Act no. 495 of 9 June 2004 amending the Act on Electricity Supply and the Act on Heat Supply, with reference to §§ 8-9, § 10, paragraph 1, § 16, paragraph 3, § 22, paragraph 1, point 4, § 27 c, paragraphs 2, 5 and 8, § 28, paragraph 2, point 4, § 29, paragraph 1, §§ 55-59 d, § 60, paragraph 1, § 64, § 66, paragraph 1, point 1, § 67, paragraphs 1 and 2, § 68, § 68 a and § 85 a, paragraphs 1 and 3, contains the following provisions regarding entry into force:

§ 3

Paragraph 1. The Minister of Transport and Energy sets the date on which the Act enters force. The Minister may determine that parts of the Act enter force before other parts.^{xi}

Paragraph 2. Settlement prices for wind turbines as referred to in § 56 b, paragraph 1, of the Act on Electricity Supply, as formulated in § 1, paragraph 12, of this Act, and which are connected to own-use installations as of 1 January 2003 until the date on which § 56 b enters force, may be received with effect as of the date of net connection.

Act no. 1384 of 20 December 2004 on Energinet Danmark, with reference to § 5, paragraph 1, points 8, 13 and 16, § 8, paragraphs 4-7, § 12, paragraph 1, point 4, § 19, paragraph 1, § 20, paragraph 1, § 20 a, paragraph 1, § 21, paragraphs 1-4, § 21 a, § 23, paragraph 3, § 26 a, paragraph 1, § 27, § 28, paragraph 2, point 3, § 29, paragraph 2, § 31, paragraph 3, § 35, paragraph 1, 6 and 9, § 35 a, § 47, paragraphs 1-3, § 51, paragraphs 1 and 2, § 70, paragraph 1, § 70 a, § 71, § 76, paragraphs 3 and 4, § 77, paragraph 2, § 84, paragraph 1, § 85 b, paragraph 1, § 87, paragraph 1, point 1, §§ 92 a- 92 k, contains the following provisions regarding entry into force:

§ 25. The Minister of Transport and Energy sets the date on which the Act enters force.^{xii}

ⁱ The provisions of the Act implement European Parliament and Council Directive 2003/54/EEC of 26 June 2003 on common rules for the internal electricity-market and on repeal of Directive 96/92/EEC (EU Official Journal 2003, no. L 176, page 37).

ⁱⁱ Chapter 1, §§ 6, 7 and 9, Chapters 3-8, as well as Chapters 10-15 of the Act entered force on 30 December 1999, (cf. Order no. 1126 of 29 December 1999). The remainder of the Act entered force on 1 November 2000, (cf. Order no. 948 of 19 October 2000).

ⁱⁱⁱ § 1, points 2 and 8-12 of the Act entered force on 30 December 1999, (cf. Order no. 1126 of 29. December 1999). § 1, points 1 and 7 entered force on 1 November 2000, (cf. Order no. 948 of 19. October 2000).

^{iv} § 1, point 2 of the Act entered force on 15 July 2000, (cf. Order no. 628 of 23. June 2000). The remainder of the Act entered force on 1 November 2000, (cf. Order no. 948 of 19. October 2000).

^v The Act entered force on 1 January 2001, (cf. Order no. 1330 of 20 December 2000).

^{vi} § 1, point 12, of the Act entered force on 16 June 2001 (cf. Order no. 527 of 6 June 2001). The remainder of the Act entered force on 1 August 2001 (cf. Order no. 663 of 29 June 2001).

^{vii} The Acts § 1, points 1-4 and 6-11, of the Act entered force on 1 July 2002, (cf. Order no. 454 of 14. June 2002).

^{viii} The Act was published on 23 May 2002 in the *Danish Law Gazette A*. § 1, point 5, entered force on 24 May 2002.

^{ix} The Act was published on 11 June 2003 in the *Danish Law Gazette A* and entered force on 12 June 2003.

^x § 1, points 1, 2, 4-6, 8, 10-24 of the Act and 26-29, § 28 b as formulated in § 1, point 30, § 1, points 31, 36, 44, 47-51, 60, 61, 63, 67, 70-77, 79, 80 and 83, and § 4, paragraphs 2-5 and 12 entered force on 1 July 2004, (cf. Order no. 615 of 18 June 2004). § 1, points 68 and 69 of the Act and § 4, paragraph 9 entered force on 1 October 2004 and § 1, point 66, of the Act entered force on 1 November 2004, (cf. Order no. 913 of 30 August 2004). § 1, point 64 of the Act entered force on 1 January 2005 (cf. Order no. 1130 of 23 November 2004) and § 1, points 3, 7, 9 and 25, § 28 a as formulated in § 1, point 30, § 1, points 32-35, 37-43, 45, 46, 52-59, 62, 65, 78, 81, 82 and 84, and § 4, paragraphs 6-8 of the Act entered force on 1 January 2005, (cf. Order no. 1484 of 23 December 2004).

^{xi} § 1, points 2, 3 and 9 of the Act entered force on 1 July 2004, (cf. Order no. 616 of 18 June 2004). § 56 d, paragraph 1 of the Act and paragraphs 4-8, as formulated in § 1, point 12 of the Act entered force on 15 December 2004, (cf. Order no. 1129 of 23 November 2004). § 1, points 1, 4-8, 10 and 11, §§ 56-56 c, § 56 d, paragraphs 2 and 3, and §§ 57-59 a, as formulated in § 1, point 12, and § 1, points 13 -21 entered force on 1 January 2005 (cf. Order no. 1129 of 23 November 2004).

^{xii} The Act entered force on 1 January 2005 (cf. Order no. 1483 of 23 December 2004).