

Unofficial translation of Executive Order No. 805 of 13 August 2019. In case of discrepancy, the original Danish text will prevail.

Executive Order on the Use of Facilities for the Production, Processing and Transportation, etc., of Hydrocarbons by Third Parties (Third-Party Access)

Under section 16(8) of the Act on the Use of the Danish Subsoil, see Consolidated Act No. 1190 of 21 September 2018, the following is laid down by authority pursuant to section 4(1) of Executive Order No. 1512 of 15 December 2017 on the duties and powers of the Danish Energy Agency:

Part 1

Purpose etc.

Purpose and scope

1. The purpose of this Executive Order is to lay down rules and procedures to ensure the appropriate and efficient use of facilities for the production, processing and transportation, etc., of hydrocarbons. Third-party access to the use of facilities must be based on terms and conditions that ensure continued incentive for the exploration of hydrocarbons as well as for the operation of facilities for the production, processing and transportation, etc., of hydrocarbons while having due regard to appropriate exploitation of the natural resources in the Danish subsoil.

2.-(1) This Executive Order applies to agreements concerning the use by third parties of facilities, see section 3(ii), established pursuant to an approval or a licence granted in pursuance of the Act on the Use of the Danish Subsoil (the "Subsoil Act").

(2) This Executive Order does not apply to upstream pipeline networks for natural gas, see the Executive Order on access to upstream pipeline networks.

(3) This Executive Order does not govern the use of facilities in connection with the production, processing and transportation of hydrocarbons that are produced outside the Danish subsoil and the Danish continental shelf area. No discrimination may take place between the use of facilities falling within this Executive Order and the similar use of facilities in connection with hydrocarbons produced in other EU and EEA countries and in their continental shelf areas.

Definitions

3. In this Executive Order:

- (i) "*facilities*" means the facilities for production, processing and transportation, etc., approved pursuant to section 10 or section 17 of the Subsoil Act, with the exception of upstream pipeline networks for natural gas, see section 16(9) of the Act;
- (ii) "*use of facilities*" means the production, processing and transportation of hydrocarbons and the associated production of gases, water, etc., in a facility, as well as the supply of services by a facility to a user in the form of electricity, water and gas for injection, the supply of gas to be used for production (lift gas) and processing, hydrocarbon storage, the use of buoy-loading facilities and the remote operation of facilities, etc.;
- (iii) "*user*" means a licensee that uses or wishes to use a facility not owned by it;

- (iv) “owner” means the company or companies that jointly own a facility used by or desired to be used by a licensee in connection with the production, processing or transportation, etc., of hydrocarbons;
- (v) “third-party access” means the use of a facility by a user.

Part 2

General principles

4. A user is entitled to use a facility on objective and non-discriminatory terms and conditions in accordance with section 16 of the Subsoil Act and the provisions of this Executive Order. Non-discriminatory means that the terms and conditions for services laid down by owners of facilities are not to discriminate between users requiring the same service.

5. The user and the owner shall ensure that agreements concerning third-party access do not grant one or more companies unfair advantages.

(2) A company which forms part of both the group of companies who is owner and the group of companies who is user, cannot make agreements which give the company access to participate in a negotiation concerning third party access representing both owners and users. Companies, see subsection (1), shall participate in a negotiation concerning third party access representing the group where the company has the largest participation share.

(3) The Danish Energy Agency can allow that conclusion of agreements falling within subsection (2) if the regard to secure an appropriate exploitation of the subsoil for both licensee and state or if special circumstances calls for it.

6. -(1) The user and the owner shall cooperate in the procurement and exchange of information necessary for the expeditious and efficient conclusion of negotiations concerning agreements on third-party access.

(2) The user and the owner may agree that any information exchanged, including the agreements referred to in section 11 concerning the use of facilities by third parties, is to be treated confidentially by the user. The user and the owner shall ensure that the terms of a confidentiality agreement conform to standard practice for such agreements in connection with the exploration and production of hydrocarbons in Denmark.

Part 3

Requests

Requests concerning available capacity

7.-(1) An owner shall reply within 15 working days to a request from a user concerning available capacity in a facility, including potential capacity expansion options.

(2) An owner shall reply within 15 working days to a request concerning available capacity where one or more companies are considering applying for a licence for exploration and production under the Subsoil Act.

(3) The owner's replies to requests pursuant to subsections (1) and (2), above, must be as adequate as possible, having regard to the time limit for replying.

Requests concerning use of facilities

8. A user's request to an owner concerning the use of facilities must specify the required services and the relevant technical information, such as production profile, desired production commencement date, and the available information about the composition of the hydrocarbons required to be handled. The request must provide the information set out in Annex 1, insofar as such information is available to the user at the time of the request and is of relevance to the request in question.

9. (1) The owner's reply to a request pursuant to section 8 must be sufficiently adequate and accurate and must reflect the information requested. The owner must as a minimum provide information about the services that can be supplied, provisos, priority, responsibilities and liabilities, and an indicative tariff as well as other relevant information. The owner must reply to the request within a reasonable time from its receipt.

(2) In its reply, the owner shall take into account its own as well as the existing and forthcoming users' use of the facility, which should not be unreasonably impaired or obstructed, as well as any plans for decommissioning the facility. A forthcoming user means a user that has entered into a binding agreement with the owner concerning the use of a facility as well as a user that has opened negotiations about the use of a facility in accordance with this Executive Order, and where such negotiations have not exceeded the time limit for the negotiation plan, see section 10. Binding agreements include agreements subject to approval by the public authorities.

(3) In its reply, the owner may include information as to whether the hydrocarbons to be produced, processed or transported, etc., have specifications, see section 8, that are reasonably compatible with technical requirements and the regard for efficient operation of the facility.

(4) The owner shall specify whether it is possible to change the production conditions or expand the capacity for the benefit of the user, if the facility has no available capacity.

(5) In case of a potential change of the production conditions or an expansion of capacity, see subsection (4), the owner must in its reply specify the anticipated costs of establishing additional capacity. The specification must state whether there is a need for investigations to clarify the conditions for providing additional capacity and what risks the owner is assumed to incur in that connection. In addition, it must be stated whether the owner considers that there is a need for an assessment, as provided by section 28a of the Subsoil Act, of the environmental impact of a change of production conditions.

(6) The user shall pay all costs incidental to investigations pursuant to subsection (5), unless otherwise agreed between the parties.

Part 4

Negotiation plan etc.

Negotiation plan

10.(1) If the owner and the user decide to open negotiations about the use of a facility, they must as soon as possible agree on a plan for such negotiations, including a time limit for their conclusion, see subsection (2). A negotiation plan should be available one month after the owner and the user have decided to open negotiations.

(2) The user and the owner shall ensure that negotiations about the use of the facility are concluded no later than six months from the date on which the negotiation plan was submitted to the Danish Energy Agency, unless otherwise agreed in the negotiation plan.

Access to existing agreements

11.(1) When a negotiation plan has been agreed upon, the owner shall grant the user access to information regarding future third-party use of the facility, subject however to subsection (2). This includes access to all existing agreements concerning third-party use of the facility made after 5 December 2011.

(2) When a negotiation plan has been agreed upon, the owner may grant the user access to existing agreements concerning third-party use of the facility made before the effective date of this Executive Order.

Terms and conditions

12.(1) The owner and the user shall seek to agree on terms and conditions, including tariffs, that are acceptable to both parties and that are in accordance with section 1, second sentence, and sections 4 and 5, as well as section 15a of the Subsoil Act.

(2) If so requested by the user, the owner must offer terms and conditions, including tariffs, separately for each of the services, unless there are clear economic benefits involved in making a combined offer of terms and conditions, including tariffs, for the desired services, and provided that both parties agree.

(3) The owner shall make a separate offer for the use of oil or gas transportation pipelines.

13. The user and the owner shall ensure that the terms and conditions, including tariffs, are reasonable. In the determination of the terms and conditions, including tariffs, regard must be had to the following:

- (i) Terms and conditions, including tariffs, must be determined on the basis of the services to be provided and independently of the profitability of the field to which the services relate.
- (ii) When using the facility, each user shall pay the operating costs inflicted on the owner by such user.
- (iii) The user shall pay any new investments required due to the use of the facility. If the user is using extra capacity in which the owner has previously invested for the purpose of third-party use, the terms and conditions, including tariffs, may include payment for the use of such capacity, including a reasonable payment for the risk that the investments would not be fully utilised. The user shall pay any additional costs for decommissioning attributable to the use of the facility by the user.
- (iv) Tariffs are not to include any repayment of investments that have already generated or, with

the planned use, must be expected to generate a reasonable return for the owner.

- (v) The user shall compensate the owner for any loss of profits, including any loss or postponement of production, as a result of the use of the facility by the user. Compensation for any loss or postponement of production must be determined on the basis of the profit that could have been gained on the lost or postponed production.
- (vi) The owner shall, to the extent possible, plan a new user's connection to a facility in such a way that any loss or postponement of production incidental to such connection is minimised.

14. The owner must be able to document the calculation methods, principles, etc., applied when drawing up the terms and conditions, including tariffs.

Disagreement

15. If the parties fail to reach an agreement concerning the use of a facility within a reasonable time, see section 10(2), the matter may be referred to the Danish Energy Agency for decision.

Part 5

Reporting

16. As soon as the owner and the user have agreed upon a negotiation plan as provided by section 10(1), the plan must be submitted to the Danish Energy Agency. The plan must be accompanied by the information described in section 8 and in Annex 1.

Part 6

Entry into force

17.-(1) This Executive Order comes into force on 1 September 2019.

(2) Executive Order No. 1449 of 8 December 2017 on the Use of Facilities for the Production, Processing and Transportation, etc., of Hydrocarbons by Third Parties (Third-Party Access) is repealed.

The Danish Energy Agency, 13 August 2019

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Information to be provided by the user to the owner in connection with the request to use facilities (third-party access), see section 8

A user's request to an owner concerning third-party access must include information enabling the owner to give an adequate reply.

There may be situations where some of the information described below may not be relevant, and there may be situations where other information than that described below should be included in the request in order to receive a sufficiently adequate and accurate reply.

1. Project overview (hydrocarbon discovery, contemplated development and production)

General description of the hydrocarbon discovery and the development option primarily desired as well as information about the desired uses of the facility.

2. Licensee and operator

The name of the user, i.e. the company or companies that are joint holders of the licence for the field where the hydrocarbon discovery is located. The companies' percentage shares of the licence must be specified. If the hydrocarbon discovery extends over several licences, this must be specified for the relevant licences. Particulars of the licence operator and its contact person.

3. Detailed description of hydrocarbon discovery, production condition requirements and potential development options

Description of the development options primarily desired and potential alternatives, including information about pressure and temperature conditions in reservoir and processing plant, requirements for water injection, lift gas, chemical treatment and number of wells.

4. Development project schedule

Expected dates and duration of key activities and milestones for the execution of the development project until commencement of production, such as negotiations concerning the use of facilities, conclusion of agreement, preparation of a development plan, authority approval of development plan and EIA procedure, construction, transportation to site and commissioning of facilities (such as platforms and pipelines), drilling of wells and commencement of production. It may be expedient to include a diagram showing the different stages of the development project.

5. Requirements for use of facilities (services), including modification of facilities

5.1 Requirements for structural modifications to existing facilities

Description of the modifications required to be made to existing facilities in the user's assessment.

5.2 Requirements for processing

Description of requirements for the following, e.g.:

- Separation of well fluids into oil, gas and other components, including description of existing information about the composition of well fluids (hydrocarbons and other components).
- Water treatment for the purpose of reinjection or discharge into the sea.

- Gas treatment and compression.

5.3 Transportation requirements for oil, gas or water

Description of requirements for transportation of well fluids in multiphase flow, fully or partially processed oil, gas and water.

5.4 Storage of hydrocarbons and use of buoy-loading facilities

Description of requirements for hydrocarbon storage and use of buoy-loading facilities

5.5 Metering, sampling and allocation requirements

Description of requirements for metering, sampling and allocation of fluids. This may include multiphase fluids, fully or partially processed oil, gas or water supplied to or from the owner's facility. There may also be a need for metering and allocation in case of commingling of the owner's and third-party users' fluids in the facility. Description of redelivery from the facility.

5.6 Requirements for operation of facility and supplies to user's facility

This may include the remote operation of satellite facilities, power supply, the supply of water or gas for injection, the supply of lift gas to the user, etc.

6. Production profiles (oil, gas and water)

Production profiles for a low, mid and high scenario until the end of the period relevant for third-party access.

7. Field reservoir data and product data

7.1 Reservoir pressure, volume and temperature (PVT properties)

Relevant information about the hydrocarbon discovery to be developed must be provided, such as

- Reservoir temperature
- Initial reservoir pressure
- Bubble/dew-point pressure
- Oil gravity
- Gas gravity
- Initial gas-oil ratio (GOR) at initial reservoir pressure
- Dead oil viscosity at standard conditions
- H₂S (ppm)
- CO₂ (mol%)
- Water gravity
- Pour point
- Wax content
- Sulphur content
- Acid number (TAN)
- Residual additive content

7.2 Composition of production and any contaminant content

An adequate description of the composition of production by specifying the content of: N₂, CO₂, H₂S, composition of hydrocarbons with a sufficient degree of detail, such as CH₄ ... C₂₀₊ with the equivalent molecular weight.

In addition to crude oil and gas composition, the composition of other fluids and gases must be described in adequate detail.

With respect to the composition of produced water, the specification must as a minimum include the concentration of the following ions: Na, K, Li, Mg, Ca, Sr, Ba, Fe, Br, SO₄, HCO₃, as well as pH value and total dissolved solids, TDS (calculated).

Information must be provided about other substances, such as additives for purification, stimulation residues and additives to enhance or control production.