

Recent developments in the Swedish energy sector

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Introduction

The main development in the Swedish energy sector are the changes to the electricity certificate system, which is a market based support system designed to assist the expansion of electricity production in Sweden from renewable energy sources and peat. Also, some of the recent market developments within the Swedish wind power sector will be mentioned and an update regarding the initial discussions of the proposed Third Energy Package will be provided.

Electricity certificate system

In May 2003 the electricity certificate system was introduced in Sweden in an effort to meet the ambitious targets for the production of electricity from renewable resources.¹ Electricity producers whose electricity production fulfils the requirements set out in the Electricity Certificates Act² receive one electricity certificate unit for each MWh of electricity they produce. Demand for certificates is created by the fact that all electricity suppliers, and certain electricity users are required to purchase certificates corresponding to a certain quota of their electricity sales or electricity use. The number of certificates to be purchased increases on a yearly basis with progressive increases of the quota proportion, thus generating a corresponding increase in the demand for the certificates. Through the sales of their certificates, producers of electricity from renewable energy sources receive additional revenue from their production of electricity, thus encouraging the expansion of electricity production from renewable sources.

The initial objective of the electricity certificate system was to increase the production of electricity from renewable energy resources by 10TWh by 2010 relative to the corresponding production in 2002. Since January

2007, the new objective is to increase this production by 17TWh by 2016.

In addition, electricity suppliers are required to purchase electricity certificates corresponding to a certain proportion of the electricity that they sell (the quota obligation). Due to recent amendments to the Electricity Certificates Act, the quota obligation now also applies to (i) electricity users who have used electricity that they have produced themselves, imported or purchased at the Nordic Power Exchange, and (ii) to electricity users in electricity-intensive industries.

With effect from 1 January 2007, a company's use of electricity for its manufacturing process has to correspond to at least 40MWh per MSEK sales value in order for the company to qualify as an "electricity-intensive company". Between 50 and 100% of the electricity used by electricity-intensive companies is exempted from their quota obligation, depending on how much electricity the company uses for every MSEK sales value it produces. During the spring of 2007, the Swedish Energy Agency was instructed by the Government to investigate the use of the concepts of, *inter alia*, "electricity intensive companies" and to propose changes to the conditions for the quota obligation exemption in the electricity certificate system.³ The investigation was launched for the purpose of looking into the feasibility of harmonising the concepts, and to investigate whether the new exemption rules could result in distortion of competition between different companies having similar activities.

In order to create stability and encourage electricity producers to make long-term investment plans, the Swedish Parliament has resolved to extend the electricity

certificates system until 2030. According to recent amendments to the Electricity Certificates Act, a power plant cannot qualify for allocation of electricity certificates for a period longer than 15 years. New plants that have become part of the electricity certificates system in May 2003 or later will have the right to receive electricity certificates for a period of 15 years. Plants that will enter the system in 2017 or later will receive electricity certificates up to and including 2030. Plants that have produced electricity since before May 2003 will be excluded from the electricity certificates system sometime between 2010 and 2014 depending on certain criteria. However, if new investments are made, to the extent that the plant can be considered a new plant, or if the plant has had a breakdown or similar damage which has prevented the plant from producing electricity for a longer period of time, then the plant (which would otherwise be excluded from the system) may enjoy an extended electricity certificates allocation period. The rationale behind these new provisions is to increase investments in new renewable power plants. Also, it is thought that electricity consumers should not have to provide support for power production that is already up-and-running and profitable.

Production from the renewable sources amounted to 11.6TWh in 2006, which is 5.1TWh more than the corresponding production in 2002. The electricity certificate system represents a cost for consumers, as the producers' extra revenue is paid via the electricity suppliers' invoices by consumers. During 2006, the total quota amounted to 97TWh of electricity, generating a total cost for consumers of approximately SEK 3.3 billion (approximately €350 million), of which SEK 660 million (approximately €70 million) were attributable to value added tax.⁴

In the opinion of the Swedish Government, an international electricity certificate market would have considerable advantages, the reason for this being that international trade contributes to a more efficient market with higher liquidity and increased turnover and therefore creates greater effectiveness and increased pressure on production costs for renewable electricity.⁵ In the bill, the Government considers that the Swedish electricity market should in the long term be developed into an international market and, in connection with a forthcoming review in 2012, it would be appropriate to consider expanding the system.

The environmental bonus

The so-called environmental bonus⁶ launched in 1994 was the first support system designed to assist the expansion of electricity production in Sweden from renewable energy sources. The environmental bonus can be described as a system which provides for energy tax deductions for entities delivering electricity generated by Swedish wind power plants. At present the environmental bonus is being phased out in favour of the

electricity certificate system. From 2009, only electricity generated by offshore wind power plants will be expected to benefit from the above mentioned energy tax deduction.⁷

Wind power expansion

The year 2007 saw the launching of two major wind power projects in Sweden.

In September, Svenska Cellulosa Aktiebolaget SCA ("SCA"), a major Swedish consumer goods and paper company, and Statkraft, a leading player in within European renewable energy, announced the formation of a jointly owned company for major investments in wind power in the northern parts of Sweden. Plans involve the production of 2,8TWh of wind power electricity per year in seven wind farms on forest land in Västernorrland and Jämtland which will amount to investment of SEK 16 billion (approximately €1.7 billion). The basic term of this agreement is that Statkraft will be responsible for the financing and SCA will provide the land for the wind power farms.

In November, Sveaskog, a forest products company owning approximately 15% of all forestland in Sweden, and Vattenfall, the largest player on the Swedish energy market, disclosed that they were entering into a co-operation agreement which, according to the parties, may result in 550 wind turbines with a total capacity of approximately 4TWh of wind power annually. Vattenfall has announced its intention to invest in total SEK 41 billion (approximately 4.4 billion) in wind power generation up to 2016.

Taking into account the above mentioned projects and the fact that the total wind power generation in Sweden fell just short of 1.0TWh⁸ in 2006, it is now clear that wind power energy is currently gaining momentum on the Swedish energy market.

Initial discussions of the Package in Sweden

As set out in the EU Framework Article, the European Commission recently presented its proposed Third Energy Package containing a wide range of measures intended to improve the working of the internal electricity and gas market in the European Union. The Third Energy Package contains two different unbundling options: firstly ownership unbundling (ie ownership separation between network owners and any supply undertakings), and secondly, the option for Member States to choose what is known as the Independent System Operator ("ISO") approach, which means that vertically integrated companies may retain the ownership of their network assets, but the network itself is to be managed by an ISO.

The Swedish Government shares the Commission's view that full ownership unbundling in both the electricity and gas sectors remains the favoured policy to develop the energy market further.⁹ In addition, although full

ownership unbundling is the preferred approach, it should, in the opinion of the Swedish Government, be practically possible to implement both systems simultaneously. The Swedish Government also has a constructive attitude towards the aim of increased transparency and harmonisation regarding the powers and technical regulations of the national regulators.

Furthermore, the Third Energy Package aims at ensuring that all regulators are fully independent, both from industry interests and, in relation to their day-to-day operational decisions, from governments. The Third Energy Package also mentions that there should not be more than one single regulatory authority in each jurisdiction. In Sweden, the regulatory responsibility for the issues included in the Package currently rests with several different authorities. Therefore, if the Third Energy Package is implemented in its current draft form, this would entail a contravention of many fundamental administrative law principles in force today and would lead to the transferring of several functions between existing authorities. It is the opinion of the Swedish Government that the aim of the Third Energy Package could very well be achieved by way of allowing a single authority to bear the main responsibility for coordinating and consulting with the relevant authorities. This national regulator could also be responsible for communicating with the European Commission and the Agency for Co-operation of Energy Regulators (the "Agency").

The Swedish Government has previously had its doubts as to the establishment of a European regulator such as the Agency (it instead supported the ERGEG+ approach), but since it now seems that the Agency's suggested authority will be limited to encouraging border-crossing co-operation, the establishment of which the Swedish Government, in principle, would be willing to support, it seems that the Government's view on this issue has now changed.

footnotes

1. *Electricity produced from wind power, solar energy, wave energy, geothermal energy, certain biofuels, peat and certain hydro power is entitled to certificates.*
2. *Sw. Lag (2003:113) om elcertifikat.*
3. *Swedish Energy Agency; the electricity certificate system, 2007*
4. *Swedish Energy Agency; the electricity certificate system, 2007*
5. *Government Bill 2005/06:154.*
6. *Sw. Miljöbonusen*
7. *Finance Bill 2003/2004:1.*
8. *Vindforsk; Annual Report 2006.*
9. *The Government Offices' memorandum 2007/08:FPM16.*