CO-industri takker for modtaget høring. Vi skal i den forbindelse meddele, at vi ikke agter at afgive høringssvar i det aktuelle emne.

M.v.h.
f/ Henrik Jensen

Med venlig hilsen

Signe Nyholm-Hansen
Kontorassistent

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2450 København SV
Telefon dir.: +45 33 63 80 38
Telefon: +45 33 63 80 00
snh@co-industri.dk

Fra: Jesper Brandrup [mailto:jbr@ens.dk]
Sendt: 5. juli 2017 15:10
Emne: Ekstern høring af udkast til lovforslag om ændring af undergrundsloven og rørledningsloven (ENS Id nr.: 578171)

Til høringsparterne

Vedhæftet sendes udkast til forslag om ændring af lov om anvendelse af Danmarks undergrund, samt lov om etablering og benyttelse af en rørledning til transport af råolie og kondensat i høring, idet Energistyrelsen venligst beder om at modtage eventuelle bemærkninger **senest onsdag den 16. august 2017** til ens@ens.dk, cc: til jbr@ens.dk og trito@ens.dk.

Dette høringsbrev samt de eventuelle bemærkninger, som Energistyrelsen modtager, vil blive offentligt tilgængelige på ministeriernes fælles høringsportal https://hoeringsportalen.dk/Hearing/Details/60817

Eventuelle spørgsmål vedrørende bekendtgørelserne kan rettes til Jesper Brandrup (tlf.: 33 92 72 98, e-mail: jbr@ens.dk) eller Trine Tougaard (tlf.: 22 852 852, e-mail: trito@ens.dk).

Der tages desuden forbehold for senere lovtekniske rettelser.

Venlig hilsen / Best regards

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Danish Energy Agency: www.ens.dk
- part of the Danish Ministry of Energy, Utilities and Climate

Kære Trine Tougaard

Under henvisning til det til DA fremsendte høringsbrev af d.d. vedrørende ovennævnte skal vi oplyse, at sagen falder uden for DA's virkefelt, og at vi under henvisning hertil ikke ønsker at afgive bemærkninger.

Med venlig hilsen

Jette L. Andersen
Chefsekretær

Fra: Trine Tougaard [mailto:trito@ens.dk]
Sendt: 9. august 2017 13:30
Til: Bob Moore <bob.moore@ardentoil.com>; 1 - KFST Energianke (KFST <post@energianke.dk>; ae@ae.dk; cement@aalborgportland.com; CO <co@co-industri.dk>; info@concito.dk; Wilbert Mourits <wilbert.mourits@dana-petroleum.com>; Danmarks Fiskeriforening <mail@dkfisk.dk>; dn@dn.dk; dof@dof.dk; info@danishshipping.dk; dsf@sportsdykning.dk; post@sportsfiskerforbundet.dk; dce@au.dk; aqua@aqua.dtu.dk; dtu@dtu.dk; Dansk Arbejdsgiverforening <DA@da.dk>; info@danskbyggeri.dk; info@danskenergi.dk; 'info@danskerhverv.dk' <info@danskerhverv.dk>; mail@danskfjernvarme.dk; 'info@danskemaritime.dk' <info@danskemaritime.dk>; Danske Regioner <regioner@regioner.dk>; 'Svend Lykkemark Christensen (slc@danoil.dk ' <slc@danoil.dk>; debra@energibranchen.dk; 'kontakt@defrieenergiselskaber.dk' <kontakt@defrieenergiselskaber.dk>; Dansk Industri <di@di.dk>; Peter Hindsberger <phind@dongenergy.dk>; info@dongenergy.dk; Knud Pedersen <knudp@dongenergy.dk>; eof@eof.dk; EVM NH Energiklagenævnets funktionsposkasse <ekn@naevneneshus.dk>; 'kundecenter@eon.dk' <kundecenter@eon.dk>; 'fri@frinet.dk' <fri@frinet.dk>; fr@friluftsraadet.dk; fsr@fsr.dk; 'greennetwork@greennetwork.dk' <greennetwork@greennetwork.dk>; Info DK <info.dk@greenpeace.org>; simon.lunn@hansahydrocarbons.com; hofor@hofor.dk; inforse@inforse.dk; Ida@ida.dk; KL <KL@KL.DK>; Landsforeningen Levende Hav <llh@levende-hav.dk>; info@lf.dk; 'Vagn.Allan.Rasmussen@maerskoil.com' <vagn.allan.rasmussen@maerskoil.com>; legal@neasenergy.com; direktions-afd@natureenergy.dk; noah@noah.dk; post@noreco.com; Samira Kiefer Andersson <Samira.KieferAndersson@nord-stream2.com>; Offshore Center Danmark <info@offshorecenter.dk>; Offshoreenergy.dk <info@offshoreenergy.dk>; info@oilgasdenmark.dk; Dancer, Nick <nick.dancer@petrogasep-nl.com>; info@reo.dk; jesper-tau.brieghel@shell.com; spijkerw <willem@spyker-energy.com>; Torben Haurum <torbh@statoil.com>; 'info@verdensskove.org' <info@verdensskove.org>; wwf@wwf.dk; jens.hirtz@bayerngas.no; cphreception@chevron.com; andreas.szabados@dea-group.com; hbalder@dyas.nl; silvia.prandin@edison.it; lka@gassco.no; pr@gaz-system.pl; hess@hess.dk; info@nord-stream.com; info@swedegas.se; joop.slager@wintershall.com; wouter.dengelbronner@wintershall.com; andre.saethern@vng.no; samfund@advokatsamfundet.dk
Emne: Høring af ny bestemmelse i lovforslag om ændring af undergrundsloven og rørledningsloven (ENS Id nr.: 588359)

Til høringsparterne

I forlængelse af igangværende høring vedrørende forslag til *lov om ændring af lov om anvendelse af Danmarks undergrund og lov om etablering og benyttelse af en rørledning til transport af råolie og kondensat* sendes udkast til tilføjet ny bestemmelse § 16 a i høring. Ændringerne til lovforslaget som følge af den nye bestemmelse er markeret med gult i vedhæftede reviderede version af lovforslaget. Energistyrelsen beder venligst om at modtage eventuelle bemærkninger til disse ændringer **senest fredag den 18. august 2017** til ens@ens.dk, cc: til jbr@ens.dk og trito@ens.dk.

Vedlagte høringsbrev samt de eventuelle bemærkninger, som Energistyrelsen modtager, vil blive offentligt tilgængelige på ministeriernes fælles høringsportal https://hoeringsportalen.dk/Hearing/Details/60860

Eventuelle spørgsmål vedrørende bekendtgørelserne kan rettes til Jesper Brandrup (tlf.: 33 92 72 98, e-mail: jbr@ens.dk) eller Trine Tougaard (tlf.: 22 852 852, e-mail: trito@ens.dk).

Der tages desuden forbehold for senere lovtekniske rettelser.

Med venlig hilsen / Best regards

Trine Tougaard
Chefkonsulent / Chief advisor
Center for Energiressourcer/ Center for Energy Resources

Mobil / Cell +45 22 852 852
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Danish Energy Agency - www.ens.dk
- part of the Danish Ministry of Energy, Utilities and Climate

Ekstern høring af udkast til lovforslag om ændring af undergrundsloven og rørledningsloven (ENS Id nr.: 578171)

Dansk Byggeri takker for muligheden for at svare på ovennævnte høring. Vi har imidlertid ingen bemærkninger til høringen.

Venlig hilsen
Britt Rasmussen
Sekretær
Tlf. direkte: 72 16 02 34

Vi samler byggeri, anlæg og industri

Nørre Voldgade 106 · 1358 København K
www.danskbyggeri.dk · Abonner på nyheder

Fra: Jesper Brandrup [mailto:jbr@ens.dk]
Sendt: 5. juli 2017 15:10
Emne: Ekstern høring af udkast til lovforslag om ændring af undergrundsloven og rørledningsloven (ENS Id nr.: 578171)

Til høringsparterne

Vedhæftet sendes udkast til forslag om ændring af lov om anvendelse af Danmarks undergrund, samt lov om etablering og benyttelse af en rørledning til transport af råolie og kondensat i høring, idet Energistyrelsen venligst beder om at modtage eventuelle bemærkninger **senest onsdag den 16. august 2017** til ens@ens.dk, cc: til jbr@ens.dk og trito@ens.dk.

Dette høringsbrev samt de eventuelle bemærkninger, som Energistyrelsen modtager, vil blive offentligt tilgængelige på ministeriernes fælles høringsportal https://hoeringsportalen.dk/Hearing/Details/60817

Eventuelle spørgsmål vedrørende bekendtgørelserne kan rettes til Jesper Brandrup (tlf.: 33 92 72 98, e-mail: jbr@ens.dk) eller Trine Tougaard (tlf.: 22 852 852, e-mail: trito@ens.dk).

Der tages desuden forbehold for senere lovtekniske rettelser.

Venlig hilsen / Best regards

Jesper Brandrup
Fuldmægtig / Advisor - Cand.jur
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Danish Energy Agency: www.ens.dk
- part of the Danish Ministry of Energy, Utilities and Climate

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CVR-nr. 34 89 00 21

15. august 2017

Jeres ref. jbr/jbc/trito
Vores ref. LABAC

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DONG Oil Pipe A/S' høringssvar på høring af forslag til lov om ændring af lov om anvendelse af Danmarks undergrund og lov om etablering og benyttelse af en rørledning til transport af råolie og kondensat

DONG Oil Pipe A/S ("DOP") takker for muligheden for at afgive høringssvar på forslag til lov om ændring af lov om anvendelse af Danmarks undergrund og lov om etablering og benyttelse af en rørledning til transport af råolie og kondensat som fremsendt den 5. juli 2017 ("Lovforslaget"). DOP er generelt positiv over for Lovforslagets intentioner om, at der skabes en mere fleksibel ordning for kapacitetsreservationerne i transportsystemet, og at DOP gives mulighed for at opkræve beløb til dækning af omkostninger til afvikling af ny-investeringer i rørledningen. Det antages i den forbindelse, at den nærmere implementering af disse elementer af Lovforslaget er henlagt til en kommende ændring af bekendtgørelsen om betaling for transport af råolie og kondensat ("Betalinsbekendtgørelsen")[1], jf. Lovforslagets § 2, pkt. 2 (s. 4), hvorfor eventuel detailkommentering af disse elementer må afvente høring af udkast til ændring af Betalingsbekendtgørelsen.

Lovforslaget giver i øvrigt DOP anledning til følgende bemærkninger:

Ad. Lovforslagets pkt. 3.13.2 (kapacitet):

I Lovforslaget pkt. 3.13.2, 1.afs., 3. pkt., (s. 27) er angivet, at det af aftalen mellem regeringen og bevillingshaverne fremgår, at olietransportsystemet har en betragtelig ledig kapacitet som en konsekvens af faldende produktion i den danske del af Nordsøen. DOP finder det formålstjeneligt at præcisere, at rørledningssystemet har en kapacitet på ca. 360t bbls/d, men at etableringen af separationsfaciliteterne medfører, at den samlede kapacitet af transportsystemet er begrænset til ca. 153t bbls/d (designkapacitet), når faciliteterne tages i normal drift.

Ad. Lovforslagets pkt. 3.13.2 (tarifbetalinger):

[1] Jf. bekendtgørelse nr. 803 af 17. juni 2016 om betaling for transport af råolie og kondensat.

Hovedkontor:
Kraftværksvej 53
7000 Fredericia, Danmark

I Lovforslaget pkt. 3.13.2, 3.afs., 2. og 3. pkt., (s. 28), står afgivet, at det af aftalen mellem regeringen og bevillingshaverne fremgår, *"[...] at der ikke gennem en sådan tarif* [tarifbetaling for brug af rørlednings- og separationsfaciliteterne] *kan opkræves bidrag til nye faciliteter, som alene er nødvendige for at understøtte enkelte tilladelsers individuelle behov. Der kan eksempelvis tænkes en situation, hvor en enkelt bruger af olierørledning har behov for særlig behandling af sin produktion, for eksempel ved fjernelse af svovl eller CO_2. I det tilfælde skal udgifterne hertil ikke belaste brugerne af olierørledningen eller separationsfaciliteterne."*

DOP skal understrege, at introduktionen af et sådant princip, hvorefter en individuel bruger skal betale for etableringen af faciliteter grundet "individuelle behov" vil være en afvigelse fra den hidtidige ordning under rørledningsloven, hvor producenter med behov for transport af produktionen solidarisk har delt omkostningerne til at etablere og drive den nødvendige infrastruktur via en enhedstarif pr. tønde transporteret råolie. Ligeledes skal brugerne af separationsfaciliteterne, når faciliteterne tages i brug, betale en enhedstarif pr. ton propan/butan frasepareret til dækning af etablering, drift og fjernelse af faciliteterne.

DOP bemærker endvidere, at introduktionen af et sådant princip om "individuel betaling" vil kunne give anledning til komplicerede afgrænsningsspørgsmål ved konkret fordeling af omkostninger, både etablerings-, drifts- og fjernelsesomkostninger, og kan medføre et administrativt tungt system med potentielt mange brugere med forskellige/overlappende behov og deraf følgende "multi-tariffer". DOP finder ikke en sådan situation befordrende for en effektiv og transparent udnyttelse af det samlede transportsystem.

Da de gjorte bemærkninger som angivet ovenfor endvidere ikke har fundet vej til selve lovteksten og reelt blot er en gengivelse af en inter partes aftale mellem regeringen og bevillingshaverne, skal DOP anbefale, at bemærkningerne udgår af Lovforslaget alternativt, at det præciseres, at den introduktion af den beskrevne ordning vil kræve ændring af rørledningsloven, modeltransportaftalen og allerede indgåede transportaftaler.

Ad. Lovforslagets pkt. 3.14.3 (klageadgang):

I Lovforslaget pkt. 3.14.3, 2. afs. (s. 30), står afgivet, at det foreslås, at enhver med væsentlig og individuel interesse i en afgørelse kan klage over afgørelser truffet i medfør af rørledningsloven, se også bemærkningerne til § 2, nr. 4, afs. 11 (s. 61).

DOP bifalder, at dette almindelige forvaltningsretlige princip kodificeres i rørledningsloven men bemærker, at det ikke af Lovforslaget fremgår, hvorledes denne klageadgang sikres rent processuelt. DOP finder, at mangel på angivelse af de processuelle regler kan give anledning til en række overvejelser:

Antages som eksempel at bruger A indbringer en klagesag for Energistyrelsen vedrørende reservation i transportsystemet, hvorledes sikres da bruger Bs (for hvem afgørelsen kan få konsekvenser) interesse i forbindelse med sagen? Høres eller informeres bruger B direkte i forbindelse med klagesagen for Energistyrelsen eller høres/informeres bruger B udelukkende om afgørelsen? Det bemærkes i den forbindelse, at en sådan sag kan indeholde følsomme oplysninger om et felts produktionsvolumen, komposition mv.

Modtager bruger A en begunstigende afgørelse, hvorledes sikres da bruger As interesse i forbindelse med bruger Bs påklage til Energiklagenævnet? Er bruger A part i en sådan sag eller høres/informeres bruger A blot?

Samme overvejelser som angivet overfor gør sig gældende for DOPs rolle i forbindelse med klageprocessen.

DOP finder på den baggrund, at det vil være formålstjeneligt, at Lovforslaget suppleres med bemærkninger om den nærmere klageproces.

--o0o--

DOP ser frem til den videre proces omkring udmøntningen af Lovforslaget herunder ændring af Betalingsbekendtgørelsen og implementeringen af de foreslåede ændringer vedrørende en mere fleksibel ordning for kapacitetsreservationerne i transportsystemet og muligheden for at opkræve beløb til dækning af omkostninger til afvikling af ny-investeringer i rørledningen i modeltransportaftalen. Vi står naturligvis til rådighed for en uddybning af de gjorte bemærkninger i dette høringssvar.

Med venlig hilsen

DONG Oil Pipe A/S

Lars Bach

Nord Stream
The new gas supply route for Europe

Danish Energy Agency
c/o Danish Ministry of Energy, Utilities and Climate
Attn.: Jesper Brandrup & Trine Tougaard

Submitted via E-Mail

16. August 2017

Consultation letter concerning legislative proposals for the Act amending the Act on the Use of Denmark Underground and law on the establishment and use of a pipeline for the transportation of crude oil and condensate.
Your E-Mail dated 05th Juli 2017, received via info@nord stream-stream.com (Ekstern høring af udkast til lovforslag om ændring af undergrundsloven og rørledningsloven (ENS Id nr.: 578171))

000-499-PER-LET-170816S1

Dear Jesper Brandrup,
Dear Dear Trine Tougaard,

Ladies and Gentlemen,

Thank you for the opportunity to comment on the above legislation proposals.

Having studied the content, we are the opinion that this amendment does not affect Nord Stream AG at the moment.

- This bill mainly covers the establishment and use of a pipeline for the transportation of crude oil and condensate the establishment and use of a pipeline for the transportation of crude oil and condensate in the Danish part of North Sea.

Head Office:
Industriestrasse 18
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- Our Pipeline System is a gas pipeline system in operation under valid permits. Our pipelines are in Danish Territorial Waters and the Danish Exclusive Economic Zone of the Baltic Sea.

We kindly ask you to keep us updated on the future development of the above mentioned legislation.

The point of contact for Authority Relations at Nord Stream AG is Bruno Haelg (Bruno.haelg@nord-stream.com).

Kind regards

Bruno Hälg

Authority Relations / Infrastructure Crossings

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Energistyrelsen
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ens@ens.dk

16 August 2017

Ref. no. 2017-1800 – Consultation on a Bill to amend the Danish Subsoil Act etc.

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CVR no.: 34 40 48 95

Oil Gas Denmark works to ensure that businesses and society gain the most possible value from Danish oil and gas production.

Oil Gas Denmark focuses on sector development, safety and the environment, research and education.

Oil Gas Denmark (OGD) is grateful for the opportunity to comment on the above-mentioned Bill to amend the Danish Subsoil Act etc., which was submitted to OGD for consultation on 5 July 2017. The Danish Energy Agency also submitted a draft for a new section § 16 a in the Danish Subsoil Act on 9 August 2017.

OGD supports the political agreement of 22 March 2017 on the development of the North Sea. OGD has on 14 August 2017 commented on the Bill to amend the Hydrocarbon Tax Act etc. As mentioned in that response, OGD finds that even though the two Bills in combination provide incentives and is a step in the right direction, more should be done in close cooperation with the entire industry to realize the full potential of the North Sea.

OGD sees the North Sea strategy and this Bill to amend the Subsoil Act etc. in conjunction with the Bill to amend the Danish Hydrocarbon Tax etc., which was submitted for consultation on 23 June 2017. The changed framework conditions proposed in the two Bills provide incentives for increased production of oil and gas from the Danish part of the North Sea. This is made possible by a combination of paving the way for a full redevelopment of DUC's facilities at the Tyra field, which is vital to Danish gas extraction, some limited tax concessions to the oil and gas industry, and improved conditions for third-party access to infrastructure.

OGD would like to make a number of general and specific comments on the draft Bill to amend the Subsoil Act etc. As a general comment OGD recommends that guidelines about the Subsoil Act's third-party access rules should be developed in conjunction with the update of the Executive Order on third party access. This should be a high priority task as OGD finds that this will increase transparency about the rules and facilitate third party access negotiations. OGD will of course be happy to participate in a dialogue concerning update of the Executive Order and the development of the guidelines.

Amongst other, OGD sees the development of guidelines as an opportunity to increase transparency about the scope or reach of the third party access regulation and the authorities' expectations to the content of third party access/tie-in agreements.

Further, the development of guidelines could also increase transparency about access to existing infrastructure where no or insufficient capacity ullage exists without expanding this, i.e. by amending conditions of production as mentioned in Section 9(4) in the existing Executive Order on third party access (Executive Order No. 1132/2011).

As a further general comment OGD notes that the administrative resources are expected to constitute three full-year equivalents. OGD finds that this number could be a low estimate in light of the comprehensive new administrative procedures and the already existing resources. It is imperative that these new procedures will not unnecessarily delay or increase the cost of projects.

OGD is naturally prepared to commit itself to a continued forward looking dialogue to secure the realization of the full potential of oil and gas production in Denmark to an even greater extent through a constructive cooperation between the Danish Government and the entire industry.

Specific comments:

1. Section 1.1 and 1.10 of the Bill

It is proposed in the draft Bill to add a new, second sentence in the Subsoil Act's Section 10(3) by which "any reduction in the capacities of installations and pipelines" is subject to approval. It is proposed to add a similar provision in the Subsoil Act's Section 17 about reduction in the capacities of pipelines.

OGD finds that it is too extensive to require that "any reduction" (OGD's emphasis) is subject to approval. OGD notes that it follows from the preparatory works, page 36, that approval is required for any change in capacity which exceeds a few percentages. OGD finds that this de minimis-threshold is insufficient. Maintaining unnecessary ullage is costly to both producers and the state and limitations in the licensees' right to reduce capacity should be restricted.

The proposed wording in the draft Bill will also increase the administrative burdens for both the industry and the authorities. These burdens are not proportional to achieve the aims of the draft Bill. Further, Section 10(3) in its current wording does not require that any change and supplement to an approved plan is subject to approval, only substantial changes and supplements need approval. The proposal in Section 1.1 of the draft Bill is therefore inconsistent with the existing scope of Section 10(3), and OGD recommends that the existing scope is maintained also with regard to reduction in capacities.

OGD's proposal is to amend Section 10(3) as set out in the draft Bill's comparison table on page 70 (draft Bill circulated for consultation on 9 August) or alternatively as follows (new text highlighted with yellow):

"Substantial changes and supplements, including substantial reductions in the capacities of installations and pipelines, to an approved plan for the production activities are subject to approval by the Minister for Climate and Energy before they are initiated".

The proposal in the draft Bill to introduce a new Section 17(3) should likewise be revised as follows:

"Substantial reductions in the capacities of pipelines shall be considered a change covered by approvals granted pursuant to subsection (1). However, this shall not apply to upstream pipeline networks for natural gas."

OGD further proposes that it is clarified in the preparatory works that the purpose of the proposal is not to prevent the field host from closing down unprofitable production (cessation of production) or mothballing facilities (suspending production), and that cessation and mothballing therefore fall outside the scope of Section 10(3) and Section 17.

2. Section 1.2 of the Bill

It is proposed in the draft Bill to add a new Section 10(5) in the Subsoil Act about terms and conditions to the effect that a licensee may be subject to an obligation to conclude an agreement with another licensee on investment in space and weight capacity.

In the draft Bill's preparatory works on page 17 in section 3.2.2 ("Eventuelle overvejelser i udvalg m.v.") a reference is made to the agreement of 23 March 2017 between the concessionaires (under behalf of DUC) and the Government. It follows that it is established in that agreement that a third party's right to use the additional capacity is exclusive for a five-year period in which the host can repurchase the capacity if the third party cannot render its planned use within the defined period probable to the authorities. It is also mentioned on page 17 that the third party's investment will need (in Danish: "vil skulle") to cover the extra costs which the host has to carry because of the additional capacity (CAPEX, OPEX and decommissioning costs).

However, the five-year period seem not to be mentioned elsewhere in the draft Bill. OGD requests that the five-year period is explicitly mentioned in the draft Bill as applicable to the new Section 10(5), alternatively that is also added that the five-year exclusivity period can be deviated from by the authorities if substantial factual reasons permit so.

Further, in the preparatory works on page 42 it is stated that terms and conditions can stipulate that the third party can (in Danish: "kan") cover the extra costs associated with space and weight capacity. This is substantially different from the summary on page 17 ("vil skulle"). OGD requests that the summary in the preparatory works on page 17 in section 3.2.2 is also reflected elsewhere in the preparatory works as applicable to the new Section 10(5) to firmly establish, in accordance with the agreement of 23 March 2017, which terms and conditions the authorities can lay down.

Further to the new Section 10(5) proposed in the draft Bill, it should be noted that the proposal involves a tangible risk for the owner (the host) of an installation who wishes to develop a project and therefore submits request for approval under the Subsoil Act's Section 10(2) or (3). The owner may, following careful assessment of volumes, have a preference for a certain technical solution to make the project commercial, but may be forced by the authorities under the new proposed Section 10(5) to implement a different technical solution which does not reflect the owner's anticipated capacity requirements. The mentioned risk will be further enhanced if the owner has no need for the extra capacity in case the third party does not use the additional capacity within the five year exclusivity period. To mitigate this risk, and to prevent that the risk may ultimately prevent the project from being sanctioned by the owner, it should be clarified that the third party shall cover the extra costs (e.g. maintenance) for the remaining lifespan of the installation unless the capacity is being used at a later point in time. If

Section 10(5) remains as currently proposed in the draft Bill, international oil and gas companies could likely view Denmark as having a higher regulatory risk and this will impact the level of activity in the Danish part of the North Sea.

Finally with regard to the new Section 10(5), OGD requests that it is clarified in the preparatory works what is meant with a "reasonable deadline" (in Danish: "rimelig frist"). The owner (the host) of an installation should not be obliged to enter into an agreement with a third party if this is not possible within a firm and transparent deadline - as long as that the owner uses reasonable efforts in accordance with the authorities' conditions laid down under of Section 10(2) or (3). It shall also be clarified that the deadline should be set not only to avoid unnecessary delays but also to avoid unnecessary costs.

It is proposed in the draft Bill to add a new Section 10(6) in the Subsoil Act. The new provision gives the authorities the right, when considering applications pursuant to subsections (2) and (3), to disclose confidential information in the approval process to another licensee with a view to obtaining such licensee's assessment of third-party access to the facilities and installations covered. The right for the authorities is not mentioned in the political agreement of 22 March 2017 or in the agreement of 23 March 2017 between the concessionaires (under behalf of DUC) and the Government.

OGD notes that information subject to the new Section 10(6) will normally be subject to Section 27(1) in the Danish Public Administration Act and will normally also be exempted from public disclosure under the Danish Public Disclosure Act. The proposed right to disclosure is therefore a deviation from the starting point under Danish administrative law, and OGD requests that it is clarified in the preparatory works that disclosure shall be restricted on a need-to-know basis and shall be limited to technical information about an installation's capacity (as distinct from commercial information). OGD also requests that absent a signed confidentiality agreement between the host and the potential third party the obligation under the Subsoil Act to delete information shall include, to the extent practically possible, analysis, compilations and studies prepared by the recipient and containing the disclosed information. It should be noted that the recipient of information from the outset can arrange its handling of the disclosed information so that deletion of analysis etc. in most cases should be practically possible.

It should be clarified directly in the new Section 10(6), or at least in the preparatory works, that the disclosed information cannot be used by the recipient for any other purposes than the assessment of third-party access to the facilities and installations covered.

Moreover with regard to the new Section 10(6) it is to be remembered that the provision addresses the situation where no third party access negotiation has been initiated between the host and a specific third party. In situations involving such specific negotiations, the existing third party acess rules regulate the detailed information which is to be provided by both parties. Contrary hereto the proposal in the draft Bill is to allow the authorities to disclose otherwise confidential information about the host's facilities to one or more third parties at a very early stage. OGD urges that it is clarified in the draft Bill that the authorities' decision disclose information shall not unduly put the owner (the host) of an installation at a disadvantage in later negotiations with a third party about access.

As a final comment to the new Section 10(6), OGD notes that it only applies to new applications pursuant to Section 10(2) and (3) and not in situations concerning third

party access to existing facilities. OGD finds that the overall effectiveness of the proposed Section 10(6) should be seen in this light.

The comments above also apply to the identical new provision in Section 17(4), see Section 1.10 of the Bill.

It is also proposed in the draft Bill to add a new Section 10(7) in the Subsoil Act. According to the proposal, an invitation to tender for contracts for equipment to be used for production, and where approval under Section 10(2) or (3) applies, shall not be allowed unless the licensee has made a notification to the minister and provided adequate information. The minister then has at least six weeks to review and request changes to the invitation, which shall be presented not later than two weeks before the invitation.

OGD recognizes the underlying considerations for the proposed Section 10(7). However, OGD finds that these considerations should continue to be mitigated through interaction and continuous dialogue between the licensees and the authorities. It is already today common practice that capacity assumptions are subject to such a dialogue at the appropriate stages of a project. In the opinion of OGD this works well and should be sufficient to mitigate the risk that the authorities require changes to the capacity of equipment with long lead time (long lead items) at the time of the approval of the development plan.

If the proposed system in Section 10(7) is implemented, a licensee would have to apply for approval of the selected capacities well in advance of preparing and submitting a formal Field Development Plan (FDP). It would, in the opinion of OGD, be very challenging for the DEA to fully evaluate capacities without an FDP and the operators would probably have to submit a type of subsurface and facilities reports (a kind of preliminary FDP) to substantiate their choice of long lead items. This will very likely result in unnecessary delays and increased costs of developments and would demand ready availability of authority resources.

OGD therefore proposes that the system in Section 10(7) be re-considered. The comments above also apply to the identical new provision in Section 17(5), see Section 1.10 of the Bill.

3. Section 1.7 of the Bill

As new Section 16(5) in the Subsoil Act it is proposed in the draft Bill to introduce a right for the authorities to set the schedules and deadlines for third party access negotiations.

In the preparatory works, page 48, it is mentioned that the authorities for example can establish a deadline for negotiations about use of facilities which, in the absence of an agreement, would be subject to a reduction in capacity. The consequence of no agreement within the deadline is therefore also that the authorities shall approve a request for substantial capacity reductions. OGD suggests that this is clarified in the preparatory works.

OGD furthermore suggest that it is clarified in the preparatory works that negotiations related to a facility that has planned capacity reductions should be concluded in less than 6 months, except if extraordinary circumstances warrants a longer deadline.

As a new Section 16(6) in the Subsoil Act it is proposed that the authorities may develop non-binding standard agreements. OGD supports this initiative and will of course readily assist with the drafting work.

4. Section 2.3 of the Bill

It is proposed in the draft Bill to insert a new Section 3(a) in the Oil Pipeline Act and give the authorities the right to reduce capacity reservations. It is mentioned in the preparatory works that the provision is "mainly" ("hovedsageligt") aimed at situations where there is an actual need to reduce reservations and where those reservations can be utilized by another licensee. OGD suggests that the right to reduce capacity shall be limited to situations where future demand is reasonably likely to exceed oil transport and separation capacity, i.e. where reserved capacity can be utilized by others. Such overall limitation will in OGD's opinion not conflict with the proposed new Section 3(3).

Further, it is mentioned in both sub-section (2) and (3), although with different wording, that reductions are possible only for reservations which are not utilised or which exceed an approved production profile, ref. Section 10(2) and (3). OGD assumes that the reference to Section 10 in the draft Bill's proposed Section 3(a) sub-section (3) is a reference to the Subsoil Act. Moreover, OGD agrees that the authorities' rights to reduce capacity should be limited to these two situations. OGD is, however, concerned if capacity can also be downward adjusted in situations where there are technically and economically justifiable reasons that capacity cannot be utilized at that point in time, but can utilized in a reasonably foreseeable future, and OGD requests that this is clarified in the draft Bill. Finally, OGD finds that the different wordings in sub-section (2) and (3) give rise to some uncertainty about the exact effect and scope of the new provision in Section 3(a), and OGD therefore suggest that a revised wording is considered for clarification reasons.

5. The proposed new section § 16 a in the Subsoil Act

It is proposed in the draft Bill to add a new section 16 a which introduces a right for the authorities to transfer the right to negotiate third party access from the owner of a third-party facility to the owner of the offshore installation which the third party facility is part of. It is stated in the Bill that the aim is to shorten the time used for the negotiations by reducing the number of participants in the negotiations. As part of the ruling the authorities must assess whether the transferal could be considered as expropriation.

OGD would like to point at the fact that normally questions regarding the use of capacity, hereunder over-capacity, will be regulated in a tie-in agreement between the owner of the installation and the owner of the third-party facility. Hence, the need for the authorities to make such rulings concerning the participants in a negotiation seems very limited and thus, the proposed regulation disproportional. OGD notes that a more proportional approach to the raised subject could be to include a section concerning the participants and their respective roles in a negotiation-situation in the non-binding standard agreements as stipulated in the new section 16(6).

Furthermore, awareness is raised to the fact that section 16(5) in the proposed Bill introduces a right for the authorities to set the schedules and deadlines for third party access negotiations. Therefore, it is possible for the authorities to fulfill the aim – shortening of the time used for negotiations – without introducing unnecessary regulation that limits the rights of the owner of an installation and which raises questions regarding section 73 in the Act of the Constitution.

On that basis OGD recommends that the proposed section 16 a is re-considered. If not, OGD requests that it should at least be clarified in the draft Bill's Section 16 a sub-section (3) that the owner (host) is entitled to charge a reasonable fee and claim full cost recovery.

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If the above gives rise to any questions, OGD would naturally be happy to provide further details.

Yours Sincerely,

Martin Næsby
Managing director
Oil Gas Denmark

VedvarendeEnergis kommentar til forslag til ændring af lov om anvendelse af Danmarks undergrund og lov om etablering og benyttelse af en rørledning til transport af råolie

D 16.august 2017
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Ændringerne af Lov om etablering og benyttelse af en rørledning til transport af råolie og kondensat bør også omfatte at staten beregner sig en kommerciel forrentning af brugen af rørledningen. Det er forkert og en manglende indtægt for staten at staten overfor kommercielle parter bruger "hvile-i -sig-selv princippet" for olie-infrastruktur.

Såfremt der er spørgsmål til ovenstående elle ønske om uddybning, kontakt politisk koordinator Gunnar Boye Olesen.

Fælles høringssvar

fra

WWF Verdensnaturfonden
Greenpeace
Danmarks Naturfredningsforening
Det Økologiske Råd
Vedvarende Energi
350 Klimabevægelsen

til

udkast til Lov om ændring af lov om anvendelse af Danmarks undergrund og lov om etablering og benyttelse af en rørledning til transport af råolie og kondensat

Undertegnede organisationer sætter pris på muligheden for at kommentere på udkast til lovforslag om ændring af undergrundsloven og rørledningsloven.

Lovforslaget sigter mod at understøtte den nye olie- og gasstrategi der bl.a. søger at fremme et effektivt og attraktivt investeringsmiljø, anvendelse og udvikling af teknologi samt at optimere vedligehold, fornyelse og anvendelse af infrastruktur. Formålet er at udnytte "potentialet" i Nordsøen og udvinde så meget af den olie og gas, der stadig befinder sig i undergrunden, som muligt. I baggrund for lovforslaget om ændring af undergrundsloven fremgår det således, at lovforslaget "*vil kunne medvirke til at betrygge selskaber, som overvejer at investere i efterforskning på dansk område, om, at rammerne for, at de kan opnå tredjepartsadgang til anlæg er til stede. I modsat fald vil de kunne beslutte at investere i efterforskning andetsteds. Det kan føre til en mindre indvinding af olie og gas og til, at staten mister potentielle indtægter*". Baggrunden for lovforslaget er essentiel, idet de konkrete lovændringer er forslået ud fra dette politiske udgangspunkt. Da undertegnede organisationer finder selve baggrunden for lovforslaget problematisk, vil høringssvaret centrere sig om dette.

Det er uhørt, at lovforslaget ikke inddrager hensyn til klimaet.
Undertegnede organisationer finder det uhørt, at lovforslaget ikke inddrager hensyn til klimaet. Forligspartierne bag det forlig, som lovforslaget søger at implementere har bakket op om Danmarks tilslutning til Paris-aftalen. Derudover er klimaaftalens mål om at holde de globale temperaturstigninger godt under 2 grader og helst ikke over 1,5 grader indskrevet i VLAK-regeringens grundlag. Vi understreger, at nuværende lovforslag ikke er i tråd med denne målsætning om at bidrage til indfrielsen af den globale klimaaftale. Ifølge forskning publiceret i Nature skal en tredjedel af kendte oliereserver og halvdelen af kendte gasreserver blive i undergrunden, hvis vi vil have 50 % sandsynlighed for at begrænse de globale middeltemperaturstigninger til 2 grader[1]. Med tanke på, at Paris-aftalen sigter mod at begrænse temperaturstigningen til et godt stykke under 2 grader og helst ikke over 1,5 grad, skal endnu flere olie- og gasreserver således blive i jorden. Rapporten "Sky is the limit[2]" fra september 2016, viser at, vi har mere end nok infrastruktur til at udvinde og transportere de resterende reserver. Med andre ord er investeringer i levetidsforlængelse og fornyelse af infrastruktur dybt problematiske. Enten vil disse investeringer resultere i, at vi ikke når Parisaftalens mål, eller også vil investeringerne strande og dermed være spildt kapital, når Parisaftalen følges op med politisk handlen.

[1] https://www.nature.com/nature/journal/v517/n7533/full/nature14016.html
[2] http://priceofoil.org/2016/09/22/the-skys-limit-report/

På den baggrund har undertegnede organisationer følgende anbefalinger:

- Der skal ikke investeres yderligere i levetidsforlængelse eller fornyelse af fossil infrastruktur. Når infrastrukturen er slidt skal den lukkes ned på forsvarlig vis.
- Der skal ikke gives tilladelser til ny efterforskning efter olie og gas på dansk jord.
- Det skal ikke være muligt at forlænge eksisterende aftaler om efterforskning og udvinding af olie og gas på dansk jord.

Vi henviser desuden til at Frankrig har gennemført et forbud mod ny efterforskning efter olie og gas. Vi mener, at Danmark bør støtte Frankrigs initiativ og dermed åbne muligheden for at lægge et internationalt pres på andre lande for lignende tiltag.