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Impossible situation of wind turbine operators in Hungary

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In the end of December 2007 the Hungarian government issued a decree on feed-in tariffs of green electricity which is effective as of 1 January 2008. Government Decree No. 389/2007 (23 Dec) establishes a penalty system for deviation from the energy generation schedule. The schedule prognosis must be given by the energy generators for several days in advance by quarter of an hour. As the decree regulates all green energy use it is compulsory for wind turbines, too. More than 30% deviation from the schedule is penalised with 5 HUF/kWh (1.8 cent/kWh) while the feed-in tariff for wind is 26.46 HUF/kWh (0.1 Euro/kWh).

The conditions of the decree are unacceptable for wind energy production from technical, economic and legal points of view:

Technical:

- To keep the required accuracy of schedule is impossible for wind turbine operators, i. e. to give data in advance by quarter of an hour;
- There is absolutely no technical necessity for such a penalty system as the existing installed capacity of 65 MW is almost not perceptible for the system regulator and also the fluctuation of consumption exceeds by far the fluctuation of energy generation by wind turbines;

Economic:

- Implementation of the decree means an incalculable financial situation for existing investments and strongly discourages future investors;

Legal:

- The unfeasible sanctions of the decree are obviously in contradiction with Directive 2001/77/EC on the promotion of the electricity produced from renewable energy source in the internal electricity market;
- The decree is contradictory with the Hungarian Act on electricity (Act 86 of 2007) which gives a certain degree of protection for wind turbines. By the Hungarian Constitution an act is superior to a decree so in this case when a decree is contradictory to an act the rules of jurisdiction are violated.

Last but not least such a shedule forecast is not expected by system regulators and such penalty system is not used anywhere within the European Union.

Hungarian wind turbine operators gave notice for the Hungarian Energy Office on the unfeasibility of the draft decree in November 2007. The only result from their application was the increase of non-penalised deviation percentage from 10% to 30%.

The Hungarian Wind Energy Association (HWEA) held a special board meeting in January 2008 where besides HWEA members and wind turbine operators also representatives of relevant authorities were invited from the Hungarian Energy Office, the system operator MAVIR and the Ministry of Economy and Transport. A decision was made to recommend feasible modifications to the decree for these authorities and in the beginning of February the relevant letters of proposal were sent. To this day there is no reply in spite of the 30 day compulsory administration deadline set for public institutions.

Recently wind turbine operators and HWEA engaged a legal firm to prepare a study on the legal faults of the decree and so to confirm the indefensibility of the current situation.