



ENERGY COMMUNITIES REPOSITORY

Denmark



OVERVIEW OF THE POLICY FRAMEWORK

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DISCLAIMER

The content of this document aims to establish an overview of the national legal developments in the context of the Clean Energy Package for the Member State mentioned above. The document includes only final legislation which was published before the end of March 2023. It does not include provisions that are not yet applicable under law (i.e., currently drafted or discussed).

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Overview

Denmark has a long history of engagement with citizens and local authorities in its energy system. Over twenty years ago, the utilities producing and supplying electricity were consumer-owned, cooperatives or municipal entities. Similarly, the district heating companies were, and are still largely, consumer-owned cooperatives or municipal entities. Local actors were also pioneers and largely contributed to the expansion of wind energy in Denmark.

The Electricity Supply Act n°984 of 2021 and the Renewable Energy Act n°1791 of 2021 enabled the ministry in charge of energy to define rules for implementing energy communities' provisions. On these bases, several orders were published, including the implementing order BEK n°2021/1069, developing the provisions on energy communities. The definitions, rights, obligations and enabling framework have been transposed. Except for their definitions and the geographical areas where they can operate, nearly all provisions for Renewable Energy Communities (RECs) and Citizen Energy Communities (CECs) are the same.

In order to facilitate the reading of the note, the term "Energy Communities" (ECs) is used instead of repeating RECs and CECs: nearly all provisions related to rights and obligation and to the enabling framework apply to both RECs and CECs. However, the term does not exist in the Danish legislation.

Definitions

There are two definitions. The Danish Energy Agency is the dedicated authority to oversee the development of RECs and CECs. Denmark does not impose specific requirements on RECs and CECs to register or be granted a licence for operation.

1.1. Renewable Energy Community

RECs are defined as legal entities based on open and voluntary participation.¹ According to the order BEK n°1069, participation and ownership of capital shares in a REC is open and voluntary. However, the participation can be limited by the partnership contract or article of the statutes. ECs can be an association, a partnership, a cooperative or a private capital company.

Capital owners or participants of RECs can be natural persons, SMEs (as per EU definition: less than 250 employees, plus an annual turnover of up to EUR 50 million, or a balance sheet of no more than EUR 43 million) and local authorities, including municipalities.

Any participant who decides on behalf of the REC cannot be engaged in extensive commercial activities and have the energy sector as their primary area of economic activity (this includes members of the organisation's

¹ § 5 (11) of LBK n°1791 and § 3 of BEK n°1069



management). Those cannot obtain a controlling influence over the REC. This exclusion does not prevent the REC from becoming an electricity trading company for the energy sharing activity.

A REC's main purpose is to provide its capital owners or participants or the local areas in which it operates environmental, economic or social community benefits rather than financial profits.

A REC should also be "independent". RECs should be controlled effectively by capital owners or participants located near the renewable energy projects owned and developed by this legal entity.

1.2. Citizen Energy Community

CECs are legal entities based on open and voluntary participation,² similar to a REC. Any natural or legal entity can join a CEC as a member. CECs can be an association, a partnership, a cooperative or a private capital company. Moreover, it is specified in LBK n°984 that a network company cannot be a CEC.

Similarly to a REC, any participant who decides on behalf of the CEC cannot be engaged in extensive commercial activities and have the energy sector as their primary area of economic activity. Those cannot obtain a controlling influence over the CEC. This exclusion does not prevent the CEC from becoming an electricity trading company for the energy sharing activity.

A CEC's main purpose is to provide its capital owners or participants or the local areas in which it operates environmental, economic or social community benefits rather than financial profits.

Among the main differences between a REC and a CEC, the CEC can only be controlled by participants or capital owners who are natural persons, local authorities, municipalities, or small businesses although any entity can participate. Moreover, CEC's participants or capital owners can be supplied with electricity from the production facilities within a CEC without being in direct physical proximity to the electricity production facility.³

Rights and obligations of energy communities

LBK n°984 enables the ministry for climate, energy and supply to lay down rules regarding active customers, CECs and aggregator companies. Those rules can also exempt CECs from certain rules and obligations associated with electricity supply obligations and aggregation to its participants and capital owners.

With LBK n°1791, the ministry is enabled to lay down rules on RECs that own facilities that produce non-electric renewable energy. These rules can include provisions on RECs' right to produce, consume, store and sell renewable energy.⁴

² § 5 (5) of LBK n°984 and § 4 of BEK n°1069

³ § 12 (2) of BEK n°1069

⁴ § 21a of LBK n°1791



To the knowledge of the Energy Communities Repository, existing rules only allow both RECs and CECs to engage in the electricity sector. The provisions on RECs and CECs (hereafter ECs) are consolidated in the same implementing BEK n°1069.

Participants in ECs maintain their rights as household consumers and active customers. If a member of an EC withdraws from the community, the relevant company law rules apply depending on the form of the company. This right to withdraw from an EC does not affect any liability obligations of the participant or capital owner in relation to the community or obligations entered into by the community.⁵ An EC member exercises its right to choose a supplier when opting for supplied or shared energy by the community.⁶ However, it can be supplied by any other electricity trading company, provided that the connection and measurement points have been established.

ECs can engage in production, supply, consumption, aggregation, energy storage, energy efficiency services or services for charging electric vehicles or provide other energy services activities for their members.⁷ Moreover, ECs are not allowed to own, establish, buy or rent distribution networks.

Regarding production, ECs must request the issuance of guarantees of origin related to the self-consumed electricity and cancel them. If Energinet develops a model for nearly real-time-based guarantees of origin, these must be used as the basis for sharing.

Moreover, ECs are granted access to all electricity markets, either directly or via a third party, in a non-discriminatory manner.⁸ In order to participate directly in the electricity markets, an EC must be established as an electricity trading or aggregator company and be covered by all the rules. The order also states that ECs must be treated in a non-discriminatory and proportionate manner concerning their activities, rights and obligations as electricity consumers, producers, electricity trading companies and aggregator companies.⁹ All ECs must be balance responsible parties or delegate their responsibility to a third party.

Assessment of obstacles, potential and removal of unjustified barriers

The Danish Supply Authority is in charge of identifying and monitoring the removal of unjustified obstacles and restrictions for the development of RECs and CECs. According to the draft NECP submitted in 2023, Denmark considers there are no barriers to establishing RECs.

⁵ § 5 (3) of BEK n°1069

⁶ § 5 (4) of BEK n°1069

⁷ § 8 of BEK n°1069

⁸ § 10 of BEK n°1069

⁹ § 11 of BEK n°1069



Enabling framework of energy communities

ECs can arrange electricity sharing within the community via the public network, with production means owned by the community or its members.¹⁰ A price can be charged for the shared electricity.

As stated above, consumer rights apply to members of an EC. Any consumer with their own meter can exit the EC and choose another supplier. Bylaws of the EC and common rules on investment applicable to the legal entity of the EC will determine procedure for exiting the investment. When consumers share a meter (e.g., in a house), a consumer that opt for an alternative supplier will need to have its own cable to the public grid and its own meter.

This shared electricity is not considered supplied electricity, and therefore, the supplier obligations are not applicable to the EC or its supplier operator for this shared electricity.¹¹

Electricity sharing in ECs must take place under an agreement on the supply of electricity with an electricity trading company, which handles offsetting and allocation based on their needs.¹² In other words, one supplier has to supply the residual electricity of the members of the EC and takes care of the production surplus. This supply contract includes both the shared energy consumed and the additional electricity needed to cover the demand. Should the EC decide to fulfil the requirement for an agreement by itself, it must comply with all the obligations for performing activities in electricity markets.

For RECs, the sharing of electricity between members must occur in the physical proximity of the production facility (not applicable to CECs).

The network operator with the license for the area where the EC is established and operates must cooperate with the EC when the EC contacts them with concrete measures for electricity sharing.¹³ The EC has to compensate the network operators in the form of separate fees, to be defined by the Danish Supply Authority, for the specific measures taken.

At the time of reviewing the Danish legislation, applicable grid tariffs and taxes in connection with electricity-sharing flows are applied to the ECs. An amendment of the Act on Supply of Electricity introduced after March 2023 should enable reduced and geographically localised grid tariffs in the future. If the EC's use of the grid increases savings for the grid operators, EC tariffs must be reduced based on the assessment of the benefits for the grid of EC's use of the network. The Danish Supply Authority has to approve the method for preparing such tariffs.

¹⁰ § 12 of BEK n°1069

¹¹ § 17 of BEK n°1069

¹² § 13 of BEK n°1069

¹³ § 15 of BEK n°1069



Access to financing and support for of energy communities

In August 2022, the ministry issued an order n°1162 on subsidies for energy communities, which empowered the Danish Energy Agency to offer grants to RECs and CECs for dissemination and exemplary projects (energy system savings, climate, flexibility, cooperation, aggregation, long-term local engagement in the electricity sector). Grants can be of DK 10 000 to DK 200 000 (eq. EUR 1 300 to EUR 27 000) for dissemination projects and between DK 20 000 and DK 1,5 million (eq. EUR 2 600 and EUR 200 000 respectively) for exemplary projects. In 2023, grants are expected to be extended to the sectors of heating and cooling.

The grants on dissemination contribute to providing information and promoting citizen engagement in energy communities.

References

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