

Research RES LEGAL – Grid issues

Country: Belgium (national)

1. Overview of grid issues

Overview of grid regulations	In Belgium, access of electricity from renewable energy sources is basically regulated by the general legislation on energy. Priority for electricity from renewable energy sources is given both for the connection to the grid and for the use of the grid. The grid users are not entitled to the expansion of the grid.
The system is connected to the grid.	System operators are contractually entitled against the grid operator to the connection of a system to the grid. The latter is obliged to enter into these contracts. The grid operator shall preferably choose as his contractual partners the operators of renewable energy systems.
Use of the grid	A given system operator has the right to access the grid and that his electricity be purchased if his system is connected to the grid.
Grid expansion	System operators are not entitled to the expansion of the grid. The grid operator is obliged to draft a development plan for the grid in cooperation with the "Direction générale de l'Energie" and the "Bureau fédéral du Plan".
Statutory provisions	<ul style="list-style-type: none"> • Loi du 29 avril 1999 (Loi du 29 avril 1999 relative à l'organisation du marché de l'électricité - Law of 29 April 1999 on the Organisation of the Electricity Market) • Arrêté royal du 19 décembre 2002 (Arrêté royal du 19 décembre 2002 établissant un règlement technique pour la gestion du réseau de transport de l'électricité et l'accès à celui-ci – Royal Decree of 19 December 2002 Establishing Technical Regulations for the Management of the Electricity Transmission Grid) • Loi du 15 décembre 2009 (Loi du 15 décembre 2009 portant confirmation de divers arrêtés royaux pris en vertu de la loi du 29 avril 1999 relative à l'organisation du marché de l'électricité et de la loi du 12 avril 1965 relative au transport de produits gazeux et autres par canalisations – Law of 15 December 2009 Confirming Several Royal Decrees Related to the Law of 29 April 2009 on the Organisation of the Electricity Market) • Arrêté royal du 2 septembre 2008 (Arrêté royal du 2 septembre 2008 relatif aux règles en matière de fixation et de contrôle du revenu total et de la marge bénéficiaire équitable, de la structure tarifaire générale, du solde entre les coûts et les recettes et des principes de base et procédures en matière de proposition et d'approbation des tarifs, du rapport et de la maîtrise des coûts par les gestionnaires des réseaux de distribution d'électricité – Decree of 2 September 2008 Establishing Regulations to Determine the Distribution Grid Operators' Total Income and the Principles and Procedures for the Calculation and Authorisation of their Export Charges).

2. Basic information on legal sources

Name of legal source (original language)			
Full name	Loi du 29 avril 1999 relative à l'organisation du marché de l'électricité	Arrêté royal du 19 décembre 2002 établissant un règlement technique pour la gestion du réseau de transport de l'électricité et l'accès à celui-ci.	Loi du 15 décembre 2009 portant confirmation de divers arrêtés royaux pris en vertu de la loi du 29 avril 1999 relative à l'organisation du marché de l'électricité et de la loi du 12 avril 1965 relative au transport de produits gazeux et autres par canalisations.
Name of legal source (English)	Law of 29 April 1999 on the Organisation of the Electricity Market	Royal Decree of 19 December 2002 Establishing Technical Regulations for the Management of the Electricity Transmission Grid	Law of 15 December 2009 Confirming Several Royal Decrees Related to the Law of 29 April 1999 on the Organisation of the Electricity Market
Abbreviated form	Loi du 29 avril 1999	Arrêté du 19 décembre 2002	Loi du 15 décembre 2009
Entry into force	02.06.1999	28.12.2002	02.01.2010
Last amended on	31.12.2009		
Future amendments			
Purpose	The law establishes a general framework for the energy market and also applies to renewable energy.	Establishing a framework for the technical and formal requirements and regulating the agreements on grid connection, grid access etc.	
Relevance for renewable energy	This law constitutes a part of the legal basis for special regulations for the promotion of renewable energy with regard to the implementation of certificate trading, grid connection and priority access for renewable energy.	The decree gives priority to renewable energy sources.	This law confirms the introduction of electricity export charges for the operators of renewable energy systems. Due to a decision by the supreme court, this law is not applicable at the moment.
Link to full text of legal source (original language)	http://tinyurl.com/29-avril-1999	http://tinyurl.com/19-decembre-2002	http://tinyurl.com/6zsef5j

Link to full text of legal source (English)			
Name of legal source (original language)			
Full name	Arrêté royal du 2 septembre 2008 relatif aux règles en matière de fixation et de contrôle du revenu total et de la marge bénéficiaire équitable, de la structure tarifaire générale, du solde entre les coûts et les recettes et des principes de base et procédures en matière de proposition et d'approbation des tarifs, du rapport et de la maîtrise des coûts par les gestionnaires des réseaux de distribution d'électricité		
Name of legal source (English)	Decree of 2 September 2008 Establishing Regulations to Determine the Grid Operators' Total Income and Principles and Procedures related to the Export Charges		
Abbreviated form	Arrêté royal du 2 septembre 2008		
Entry into force	12.09.2008		
Last amended on	15.12.2009		
Future amendments			
Purpose			
Relevance for renewable energy	This decree introduced the export charges for the operators of renewable energy systems. Art. 41 of		

	the decree is currently not applicable due to a decision by the supreme court.		
Link to full text of legal source (original language)	http://tinyurl.com/6zgl9cn		
Link to full text of legal source (English)			

3. Further information

Institution (name)	Website	Name of contact person (optional)	Telephone number (head office)	E-mail (optional)
Service Public Fédéral Economie, P.M.E., Classes moyennes et Energie – FPS Economy, S.M.E.s, Self-employed and Energy	http://economie.fgov.be/de/		+ 32 227 751 11	
Elia – transmission grid operator	http://www.elia.be/		+32 254 670 11	
Commission de Régulation de l'Electricité et du Gaz (CREG) – regulatory authority	http://www.creg.be/		+ 32 228 976 11	

4. Connection to the grid

Legal source	Arrêté du 19 décembre 2002	
Overview	<p>System operators are contractually entitled to be connected to the grid by the grid operator. The grid operator is obliged to enter into these agreements. The essential contents of such an agreement are defined by law (Art. 112 Arrêté du 19 décembre 2002). Prior to entering into an agreement, the grid user shall submit an application for connection (demande de raccordement) to the grid operator. The claim for grid connection arises at the date of the conclusion of the agreement.</p> <p>Every system operator or grid user that meets the technical conditions of a so-called "utilisateur du réseau" is entitled to connection (Art. 45-78 Arrêté du 19 décembre 2002).</p> <p>The obligated party is the grid operator (Art. 3-9 Arrêté du 19 décembre 2002).</p>	
Procedure	Procedure	<p>The distribution grid operator operates on the national level. His grids have a voltage of 150 kV to 380 kV. For this reason, the following procedure applies to all the regions:</p> <ul style="list-style-type: none"> - First, the generator applies to the grid operator for connection. Art. 95 of Arrêté du 19 décembre 2002 sets out the information to be provided in the application. - After receipt of a complete application, the grid operator conducts a thorough examination to present technical solutions for the connection of the system to the grid. The applicant is obliged to bear the costs of this examination (Art. 95, 5° Arrêté du 19 décembre 2002). - The operators of onshore plants that have a capacity of at least 25 MW shall apply to the Ministry for Energy for a generation licence. The operators of onshore plants with a capacity of less than 25 MW only need to register the system with the Ministry for Energy. - After an applicant has accepted the technical solution proposed by the grid operator, a grid connection agreement is concluded. <p>Prior to submitting an application for connection, a system operator may request the grid operator to conduct a benchmark study. This benchmark study shall include a cost estimate for connection (Art. 88 and 80 Arrêté du 19 décembre 2002). The costs of the benchmark study shall be borne by the applicant. Where technically feasible, the grid operator is obliged to give priority to renewable energy when conducting benchmark studies or processing applications for connection (Art. 79 and 100 Arrêté du 19 décembre 2002).</p>
	Deadlines	<p>The date of connection to the grid depends on the terms of the agreement.</p> <ul style="list-style-type: none"> • Where an application for a benchmark study has been accepted, the grid operator shall present the results of the study within 40 working days (Art. 87 Arrêté du 19 décembre 2002).

		<ul style="list-style-type: none"> The grid operator is obliged to examine an application and inform the system operator of missing documents and information within 10 days from the receipt of the application (Art. 97 Arrêté du 19 décembre 2002). The grid operator and the system operator are obliged to reach an agreement on the technical solution for connection within 60 days as soon as the application is complete (Art. 105 Arrêté du 19 décembre 2002). The grid operator and the system operator shall conclude a connection agreement within 60 days after having reached an agreement on the technical solution (Art. 109 Arrêté du 19 décembre 2002).
	Obligation to provide information	
Priority to renewable energy (qualitative criteria)	(x) Priority to renewable energy () Non-discrimination	Renewable energy systems shall be granted priority connection with regard to grid security. This principle of priority shall be applied at all stages of the examination of a grid connection project (preliminary examination and application for connection, Arts. 79, 94, 100 of Arrêté du 19 décembre 2002).
Capacity limits (quantitative criteria)		
Funding		
	State	
	Consumers	
	Grid operator	
	System operator	The costs of grid connection are borne by the system operator who submitted the application for connection. The costs arising from the mandatory examinations, the preliminary examination and the examination of the grid connection project are borne by the system operator. They are deducted from the costs of grid connection.
	Distribution mechanism	

5. Use of the grid

Legal source	Arrêté du 19 décembre 2002 Loi du 29 avril 1999	
Overview	<p>The system operators are contractually entitled against the grid operator to use the grid. The grid operator is obliged to enter into agreements according to non-discriminatory criteria. The claim for use of the grid arises at the date of the conclusion of the agreement. The grid use agreement defines the rights and obligations of the grid operator and the system operator. It also includes provisions on access and connection charges. Applications for access (examen de la demande d'accès) are also assessed with regard to the available grid capacity (Art. 168 Arrêté du 19 décembre 2002). The grid operator may deny the use of the grid if grid capacity is insufficient (Art. 15 Loi du 29 avril 1999). The grid capacity available to an individual system operator is stipulated in the agreement.</p> <p>Entitled party. The entitled parties are those system operators that have entered into a connection agreement (Art. 163 Arrêté du 19 décembre 2002).</p> <p>Obligated party. The grid operator is the party obliged to grant access.</p>	
Procedure	Procedure	<p>In order to be able to use the grid, a given system operator (who has entered into a connection agreement) must apply for access (Art. 163 Arrêté du 19 décembre 2002). As stated by the grid operator, an agreement is valid only after it has been signed by the system operator and the system operator has provided a bank guarantee.</p> <p>When applying for grid access, a given applicant shall appoint a person to be responsible for the security of the access points defined in the agreement ("responsable d'accès" or ARP - Access Responsible Party) (Art. 172 Arrêté du 19 décembre 2002). Every system operator may register himself/herself as an ARP in the register of ARPs or appoint a third person to assume this responsibility on his/her behalf. To become an ARP, a system operator (or third person) shall enter into an agreement (contrat de responsable d'accès) whose contents are described by law (Art. 151 Arrêté du 19 décembre 2002).</p>
	Deadlines	<p>Deadlines concerning access may be specified in the grid use agreement. In contrast to this, deadlines regarding the procedure for concluding agreements are specified by statutory law.</p> <ul style="list-style-type: none"> • The grid operator is obliged to examine an application and inform the system operator of missing documents and information within 5 days from the receipt of the application (Art. 167 Arrêté du 19 décembre 2002). • The grid operator may reject an application within 12 days after receipt. The grid operator is obliged to give reasons for its decision (Art. 170 Arrêté du 19 décembre 2002). • The grid operator is obliged to submit an offer to the applicant within 15 working days (Art. 171 Arrêté du 19 décembre 2002).

	Obligation to provide information	
Priority to renewable energy (qualitative criteria)	(x) Priority to renewable energy () Non-discrimination	Electricity from renewable sources must be given priority access and transmission unless the security of supply is at risk (Art. 268 § 1 of Arrêté du 19 décembre 2002 in conjunction with Art. 11 no. 3 of Loi du 29 avril 1999).
Grid stability	When applying for grid access, a given applicant shall appoint a person to be responsible for the security of the grid access points defined in the agreement ("responsable d'accès" or ARP-Access Responsible Party) (Art. 172 Arrêté du 19 décembre 2002). Every ARP shall make sure that, within his/her area of responsibility, there is a balance between the electricity exported to and the electricity imported from the grid. The grid operator is responsible for ensuring that electricity flows are balanced in the entire grid system. If the grid is not balanced, the grid operator may implement correcting measures and impose fines on the responsible ARPs (Arts. 157 to 159 Arrêté du 19 décembre 2002).	
Funding		
	State	
	Consumers	In the end, the costs are borne by the consumers through their electricity bills.
	Grid operator	
	System operator	
	Distribution mechanism	Every consumer is obliged to pay a fee, which depends on the amount of electricity consumed and is used to fund government activities related to the operation of the electricity grid and the regulation of the electricity market. This fee is collected by the grid operator. Electricity from renewable sources is exempt from certain elements of this fee (Art. 21 to § 1 par. 1-3 and § 1 to Par. 1 Loi du 29 avril 1999).

6. Grid expansion

Legal source	Loi du 29 avril 1999 Loi du 15 décembre 2009 Arrêté royal du 2 septembre 2008	
Overview	System operators are not entitled to the expansion of the grid. Obligated party. In cooperation with the "Direction générale de l'Energie" and the "Bureau fédéral du Plan", the grid operator is obliged to present to the federal regulatory authority CREG a development plan for the expansion of the grid and all investments, taking into account the expected capacity requirements (Art. 13 § 2 of Loi du 29 avril 1999). This plan shall be approved by the Minister for Energy.	
Procedure for system operators	Procedure	System operators are not entitled to the expansion of the grid.
	Enforcement of claims	Belgian legislation does not establish a claim for the expansion of the grid.
	Deadlines	The plan has a duration of at least ten years and must be revised every four years (Art. 13 Loi du 29 avril 1999).
	Obligation to provide information	
Incentives for grid expansion		
Funding		
	State	
	Consumers	
	Grid operator	The costs of the expansion of the grid are initially borne by the grid operator.
	System operator	
	Distribution mechanism	In pursuance of the general legislation on energy, the grid operator may pass on part of these costs to the consumers. Until 2011, generators had to pay charges for the export of electricity from renewable sources to the grid. These charges were used to cover the costs of the development works required to connect the growing number of renewable energy systems. The export charges were introduced by the Decree of 2 September 2008 and approved by the Law of 15 December 2009. However, the export charges were abolished by the Belgian supreme court on 31 May 2011.

		The reason for abolishing the export charges was that they had been introduced by the Belgian government although the European Union had decided that (national) decisions on fees and prices should be made by the regulatory authority only.
Grid studies		