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Who should own the nearshore wind turbines?

A case study of the Wind & Welfare project

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Who should own the nearshore wind turbines?

- A case study of the Wind & Welfare project



Who should own the near-shore wind turbines?

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Summary

This report examines the possibility for non-profit organisations to participate in tenders for nearshore wind turbines in Denmark under the current framework conditions in the area. The point of departure is a case study of the non-profit organisation Wind People's attempt to participate with a popular project in the Danish tender for 350 MW nearshore wind turbines. A series of in-depth interviews have been carried out with Wind People's staff in order to make an in-depth analysis of their actions and experiences of entering into the market for nearshore wind turbines. The report concludes that it is not possible for non-profit organisations to participate with popular projects in connection with tenders for nearshore wind turbines in Denmark under the current framework conditions. Therefore, it is necessary to make a modification of the framework conditions. In itself, this is not sufficient to pave the way for non-profit organisations to be able to enter the market, however, as the study shows that the established actors in the market also have a large influence on who is allowed to enter the market. The results of the report are a number of recommendations to the Danish politicians and the Danish Energy Agency aimed at measures that can help to ensure broader competition at future tenders for offshore wind turbines in Denmark. In preparation for tender conditions in connection with tenders, it is for instance recommended that an analysis is conducted on how the various groups of stakeholders are organised in order to be able to prepare appropriate pre-qualification requirements. Furthermore, a number of recommendations have been prepared for non-profit organisations that wish to participate in future tenders in Denmark. One of the recommendations is that the non-profit organisations should activate their academic professional network to pull the strings and get in touch with relevant persons and actors when organising a tender or a project.

Preface

The report is made by the Department of Development and Planning at Aalborg University, in the period from October 2015 to March 2016. The report is made to get an in-depth understanding of the process that takes place when a non-profit organisation participates in tenders for nearshore wind turbines in Denmark. The preparation of the report has taken place in parallel with the tender for 350 MW Danish nearshore wind turbines, and thus it has been possible to follow the process closely.

The report "Who should own the nearshore wind turbines? – A case study of the Wind & Welfare project" is a result of the international research project "Mobilizing grassroots capacities for sustainable energy transitions: path improvement or path change?" (MobGIs), which has received funding from Innovation Fund Denmark and is part of JPI Climate.

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1 Introduction

In Denmark, the political objective is that the energy system must be based on 100% renewable energy by 2050 (Klima- Energi og Bygningsministeren, 2015). This conversion of the Danish energy system should, i.a., take place through the expansion of offshore wind turbines and nearshore wind turbines, for which objectives have been outlined in the Energy Agreement of March 2012 (Folketinget, 2012).

Nearshore wind turbines are one of the measures which will help to ensure the conversion of the energy system. It appears from the Energy Agreement of March 2012 that towards 2020, 500 MW nearshore wind turbines must be installed in Denmark (Folketinget, 2012). The figure has, however, later been downgraded to 400 MW, of which 50 MW must go to demonstration and pilot projects (Energistyrelsen, 2015b). It also appears from the Energy Agreement that the expansion of the offshore wind turbines must be carried out in such a way that focus is on greatest possible competition, as well as on securing the lowest possible prices (Folketinget, 2012).

The large offshore wind turbine projects in Denmark have so far been characterised by minimal competition, which is reflected in the fact that only a few large energy companies, such as DONG and Vattenfall, own the offshore wind farms (Energistyrelsen, 2015d). This could be problematic, as the presence of too few actors in the market can lead to high electricity prices for the consumers. This can be seen, i.a., by the tender for the offshore wind farm near Anholt, in which DONG Energy, as the only tenderer, won the tender with a price of DKK 1.05 per kWh (Holm & Wittrup, 2010),(Wittrup, 2011). To lower the electricity prices from offshore wind turbines, more actors must be able to enter the market and compete with the few large energy companies in the market today.

One of the actors likely to be a competitor to the large energy companies may be popular projects. Popular projects can, i.a., help to reduce the popular opposition to the nearshore wind turbines, as this ownership model can help to create local cohesion and to direct financial resources back to the local community, where they could fund, e.g., a sports hall or other activities (VedvarendeEnergi, n.d.). The popular opposition to the nearshore wind turbines can for instance be seen in the current multi-site tender for 350 MW nearshore wind turbines in Denmark. One of the locations included in the tender is off the coast of Sæby in North Jutland, where there is great opposition from the local citizens who believe that the offshore wind farm would destroy the view and have a negative impact on tourism in the area (Vendsyssel Energi- og Miljøforening, 2015), (H. Christensen, 2015).

Besides presumably being able to reduce the opposition, popular projects will be able to help ensure that the surplus from the wind farms will remain in Denmark, to the benefit of Danish society, in contrast to large international firms achieving ownership of the Danish offshore wind farms. Today, the majority of the large Danish offshore wind farms are owned exactly by international companies, DONG and Vattenfall. Vattenfall, which is Swedish, and DONG, which was partly sold to the foreign company Goldman Sachs funds in 2013 (Dong Energy, 2013). This means that the Danish offshore wind farms do not have a particularly large share of Danish ownership.

One of the greatest advantages of including popular projects, when large nearshore wind farms are put out to tender in Denmark, will be that the domestic consumers, as owners of the farm, do not have the same need for return on investment as the large companies. This means that the popular projects can help to create competition on prices, which would mean lower electricity prices for the Danish consumers.

Popular ownership has not yet been seen in the case of large projects in the offshore wind turbine market, but this does not mean that popular ownership cannot be found elsewhere in the energy industry. Over the years, Denmark has had a tradition of consumer ownership or municipal ownership models in the Danish energy system. Consumers and municipalities have been owners of the large power plants, as well as the distribution and transmission infrastructure, through the two companies Elsam and Elkraft. Elsam and Elkraft were owned by power grid companies, which were either consumer-owned or municipally owned. The power grid companies also owned the local distribution grid for the supply of electricity to the Danish consumers (Quartz + co, 2015).

Although large parts of the popular ownership over time have passed to state companies and major private companies, the local ownership can still be found in the decentralised CHP and heating plants. There are also examples of publicly owned onshore wind turbines, where, in addition to private shareholders, local foundations own shares where the profit goes to initiatives in, e.g., the local community or to other non-profit purposes. Examples are the foundation Ærø's Renewable Energy Funds (the Ærø Foundation) and the wind turbines in Hvide Sande (Wind People, n.d.-a).

Furthermore, an example can also be found of popular projects having taken place in connection with near-shore wind turbines. This is the project in Middelgrunden where Middelgrunden Wind Turbine Cooperative (Middelgrundens Vindmøllelaug) owns ten out of a total of 20 wind turbines at the site, while DONG Energy owns the rest (Middelgrundens Vindmøllelaug, 2015). Thus, some experience with popular ownership in the Danish energy industry is present, which is why public ownership in connection with nearshore wind turbines in Denmark at first seems like a good way to create more competition in the market in order to ensure lower electricity prices to the Danish consumers.

1.1 The tender for 350 MW nearshore wind turbines in Denmark

At the moment, concurrently with the preparation of this report, a government tender is in progress in connection with the 350 MW nearshore wind turbines which, as described, originate from the Energy Agreement of March 2012. The tender for 350 MW nearshore wind turbines has an estimated contract value of DKK 7 billion (Deloitte, 2013), which is equivalent to about DKK 20 million per MW.

It appears from the tender documents "Conditions for the tender for construction of 350 MW offshore wind power capacity in coastal areas", which are still in preparation and scheduled to be completed in January 2016, that in connection with the tender, state aid is offered to the winner of the tender for the first 50,000 full load hours of the plant's production (Energistyrelsen, 2015c). This state aid is paid through the Public Service Obligation(PSO) tariff, which the Danish consumers pay through their electricity bill. The PSO-tariff aims to promote environmentally friendly electricity production (Energinet.dk, 2013). This is exactly one of the reasons why it is desirable to have more competition in connection with tenders for offshore wind turbines, because the lower the tenderers' prices are, the less the project will have to be supported.

In connection with the tender for nearshore wind turbines, a new actor appears in the form of the non-profit organisation Wind People who tries to enter into the market with a popular project. As mentioned earlier, the introduction of a popular project at the tender can mean greater competition on the prices.

Wind People tries to pre-qualify for the tender with the project Wind & Welfare (Vind & Velfærd), but faces a number of challenges in the tender notice and in their interaction with civil service and the political sys-

tem, which ultimately results in the fact that the popular project Wind & Welfare does not succeed to pre-qualify for the tender. Therefore, they cannot be included in the final round of tenders and help to create competition on the prices. Three actors are pre-qualified who are allowed to join the bidding process for the tender. These are Wpd HOFOR Danish Offshore Consortium, European Energy Nearshore Consortium and Vattenfall Wind Power a/s (Vattenfall Vindkraft A/S) (Energistyrelsen, 2015h). This means that actors with limited affiliation to popular appeal will not be pre-qualified in connection with the tender.

As Wind People did not succeed in pre-qualifying for the tender with Wind & Welfare, it is important to find out why — whether the framework conditions are the barrier, or what other factors could be the reason that the popular project did not manage to be part of the tender.

1.2 The non-profit organisation Wind People as a case

Wind People is a non-profit organisation (NGO) working under the purpose of establishing popular wind turbine projects in Denmark for the common good. In 2009, Wind People was established as a foundation with the primary aim of reducing CO₂ emissions through an implementation of popular wind turbine projects. The profits from projects are to be spent on promoting renewable energy and ensuring an increased welfare of vulnerable population groups and local communities (Wind People, 2015a).

Wind People strives to implement both Danish and international projects. The foundation is organised in such a way that the main foundation as well as a subsidiary company handle all the foundation's trading activities. If the foundation does international projects, subsidiaries will be established in the individual countries with the purpose of ensuring that the profits of the projects go to local, societal beneficial purposes (Wind People, 2015a).

Wind People has a number of staff and volunteers who work with activities in Denmark and abroad, including Brazil and Africa. In connection with the Wind & Welfare project, primarily Lea Vangstrup and Bjørn Holmgaard are active in relation to obtaining pre-qualification in connection with tenders for the Danish nearshore wind farms and the subsequent complaint in the case, which will be clarified throughout this case study.

Since 2009, Wind People has been working with various local projects. The formation of Wind People is mainly based on the experience that Lea Vangstrup has acquired through her work as an expert for the European Commission in the large-scale implementation of renewable energy, as well as through her work with the planning of the first major wind farm project on Ærø. The popular wind turbines in Ærø and the local population's involvement in the debate regarding turbines have been the great inspiration for the formation of Wind People and the work that the organisation performs (Wind People, n.d.-b).

The foundation is currently working, i.a., with the project Wind & Welfare, which is described in this report. In addition, they are also working on the project Winds of Change, the purpose of which is to establish a test centre on Ærø, which will examine, with exemption from the Danish State, new tax systems and market models for how to achieve the optimal conditions for an integrated energy system (Wind People, 2015a).

1.2.1 Background for Wind People's decision to participate in invitations to tender

Since the start of the foundation in 2009, Wind People has been involved in various popular onshore wind turbine projects in Denmark, e.g., the popular wind turbine project by Trolldhede as well as the wind tur-

bines by Hvide Sande, where Wind People helped to introduce the commercial foundation as the ownership model for the project (Wind People, 2015b). Wind People's attempt to obtain pre-qualification in connection with the tender for 350 MW nearshore wind turbines builds on the experiences they acquired through their previous work with wind turbine projects. It is, however, particularly Wind People's work and development in connection with their attempt to make a bid on the offshore wind farm Djursland/Anholt which has been the basis for Wind People's opportunities to create the project Wind & Welfare and to create awareness of themselves to get through the pre-qualification to be able to bid on projects in the tender for 350 MW nearshore wind turbines (Holmgaard, 2015d).

The actual mission statement to bid on nearshore wind turbines originates from Wind People's wish for lower electricity prices, Danish ownership and increased popular co-ownership in the green conversion (Holmgaard, 2015d) With the project Wind and Welfare, they would therefore like to make a popular project owned by the Danish consumers.

Wind People's ownership model is made to ensure that the Danish electricity consumers have the opportunity to own the Danish energy system. Wind People works with an ownership model, which gives the Danish electricity consumers the opportunity to buy shares in the project, corresponding to their own annual electricity consumption. Furthermore, in the neighbouring areas of the wind turbines, Wind People wants to create a local foundation which owns a part of the wind turbine shares, and thus generate funds to support the local community. Wind People will also own a part of the shares, so that the profit can be used to run the organisation and their work with other popular projects in Denmark (Vangstrup, 2015g)(Vind og Velfærd, 2015b).

Given that the major Danish energy companies are being sold abroad, such as DONG, it is essential for Wind People to act against this development in order to keep the Danish energy systems in Danish hands. They will do this by offering the project Wind & Welfare in connection with the tender for nearshore wind turbines (Vangstrup, 2015h).

1.3 Research question and structure

On the basis of the tender for 350 MW Danish nearshore wind turbines and Wind People's attempt to participate in this, Wind People and their Wind and Welfare project are used as a case study to examine the following research question:

Is it realistic that non-profit organisations can tender for major nearshore wind turbine projects in Denmark through popular projects under the current framework conditions?

The research question is answered by answering the following four sub-questions:

1. **What characterises the current framework conditions for the tender for nearshore wind turbine projects in Denmark?**
2. **How has the process been for Wind People as an organisation in connection with the project Wind & Welfare?**
3. **Which stakeholders are involved in such a process and how do they act in relation to Wind People and their project Wind & Welfare?**
4. **How does a non-profit organisation develop through a process of dialogue with decision makers and key stakeholders?**

In order to set the framework for the response to the problem and thus create a knowledge base for the analyses in the report, the theoretical framework is drawn up in **Chapter 2**. The methods used in connection with the report are described in **Chapter 3**.

Chapters 4 and 5 explain, respectively, the framework conditions for the tender for nearshore wind turbines, as well as the process that Wind People goes through in connection with organising the tender for Wind and Welfare. Thus, the two chapters answer the sub-questions 1 and 2, respectively, of the research question.

In **Chapters 6, 7 and 8**, the knowledge gained through the statement and the examination of the data available regarding the tender is analysed as well as data obtained through interviews with Wind People. In Chapter 6, sub-question 3 is answered, while Chapter 7 answers sub-question 4.

The results from the analyses are discussed in **Chapter 9**, and finally the findings of the report are concluded in **Chapter 10**. The structure of the report is illustrated in Figure 1.

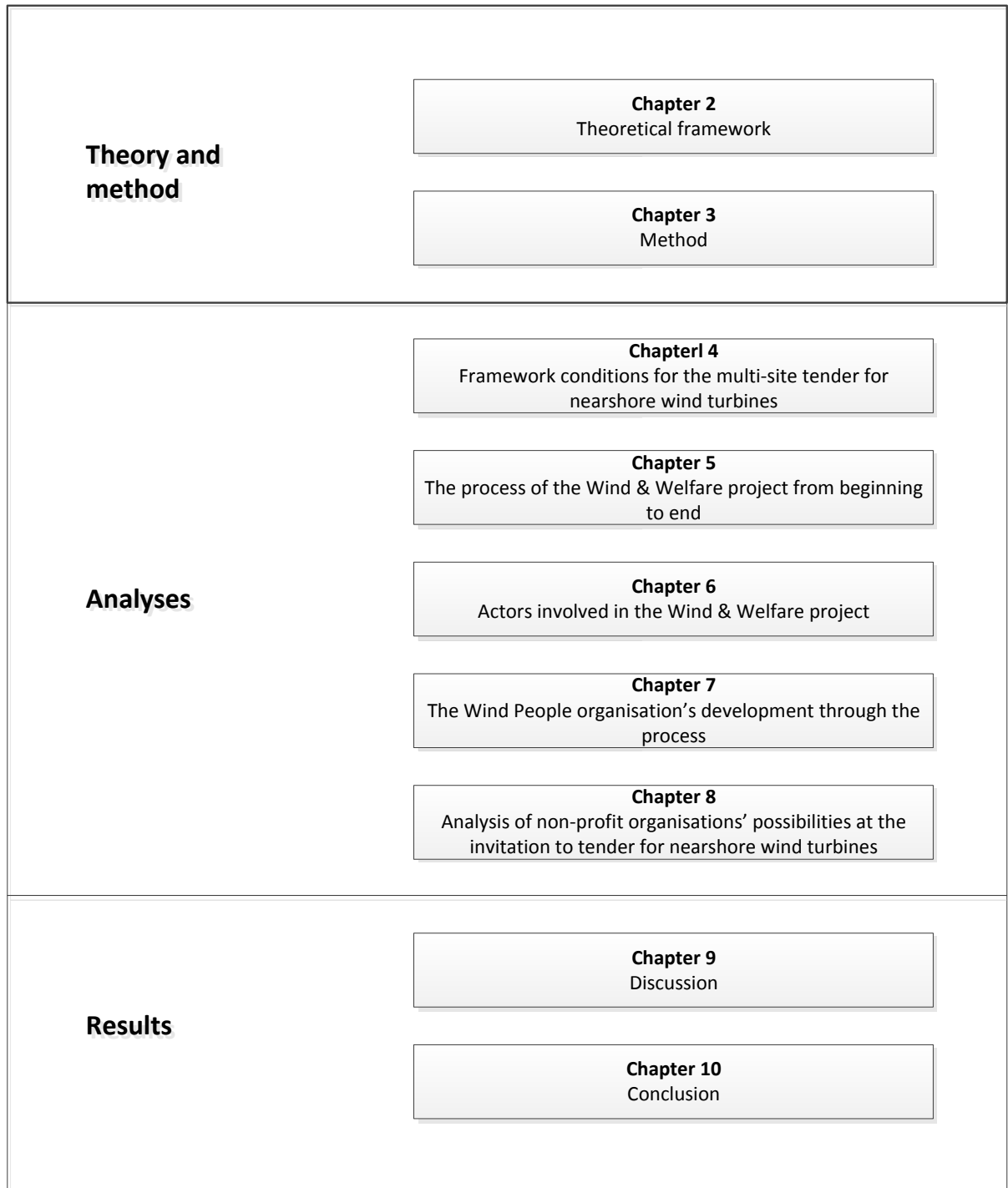


Figure 1: Report structure (Own illustration).

2 Theoretical framework

The purpose of the theoretical framework is to describe the world view through which the report's problem definition is illustrated. Thus this section sets out the overall framework for the analysis of the possibilities for the non-profit organisations in connection with popular projects, in the case of tenders for nearshore wind turbines in Denmark.

The preparation of tenders for major offshore wind farms in Denmark is undertaken by the Danish Energy Agency (DEA) on the basis of a political decision to develop electricity production from offshore wind turbines (Folketinget, 2012). The preparation of contract notice and tender documents is made according to the classical public procurement directive 2004/18/EC, which draws up rules of procedures for construction projects, among other things (Udbudsportalen, 2015a). In addition, the tender must also meet the EU requirements, in the form of the Treaty on the Functional Area of the European Union and the "Guidelines on State aid for environmental protection and energy" (EUROPA-KOMMISSIONEN, 2014).

In addition to the Government, which is in charge of the political decision on the expansion of offshore wind turbines, the Danish Energy Agency which is responsible for the preparation of the tender, as well as EU's requirements and guidelines in this area, other actors also have the opportunity to influence the design of the tender. Potential bidders have the possibility to influence the tender through a technical dialogue initiated by the Danish Energy Agency in connection with the preparation of the tender notice (Konkurrence- og Forbrugerstyrelsen, 2013). In addition to the potential bidders, it is also presumed that lobbyists in the energy field have influence on the choices that the Danish Energy Agency makes in connection with the drafting of the contract notice and contract documents. Figure 2 shows which actors are assumed to have influence on the preparation of the tender for nearshore wind turbines in Denmark.

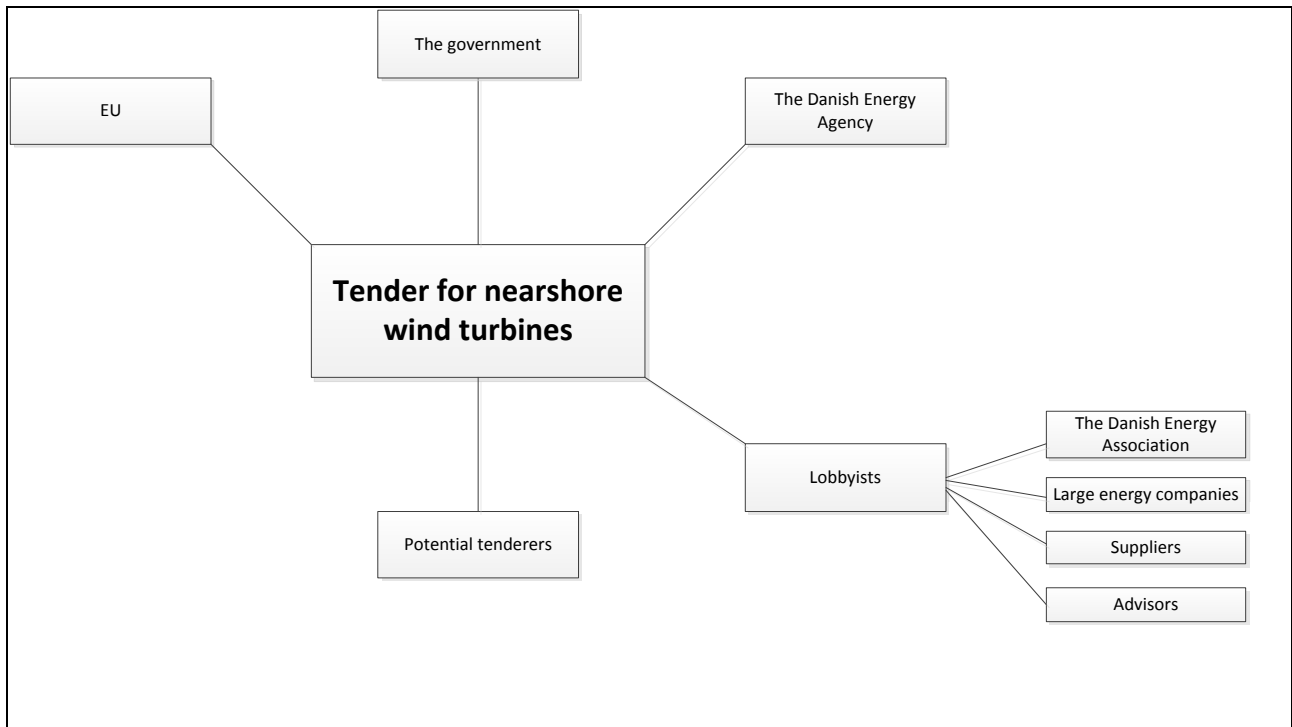


Figure 2: Actors assumed to have influence on the preparation of the tender for nearshore wind turbines in Denmark (own illustration).

The tender notice must live up to the Danish and European legislation, but this still makes room for the Danish Energy Agency to shape the tender in such a way that it can match potential bidders. Particularly in connection with this process, this report works with the assumption that lobbyists, in the form of especially major energy companies and the Danish Energy Association, have a great influence on the requirements made to potential bidders in the tender notice. This assumption is based, among other things, on the minor or lack of competition in connection with previous tenders for large offshore wind turbine projects in Denmark.

In relation to the report's assumption that popular projects must have the opportunity to participate in tenders, such as the tender for nearshore wind turbines, the citizens are also an important actor. However, these do not appear directly from Figure 2, as their interests are assumed to be taken care of by for example NGOs. There are certainly other actors who have an interest in or have influence on the design of the tender conditions. These are not identified in this report, however, as the focus here is on the non-profit organisations' possibilities to bid with popular projects in connection with such tenders.

2.1.1 Non-profit organisations and popular projects - an innovation in the offshore wind turbine market

Since 1974, Denmark has been working on a technological change in the energy field. Technology can be defined as consisting of five elements: profit, technique, knowledge, organisation and product. Technologies can be changed and renewed at the level of society by changing one or more of the elements of the technology (Hvelplund, 2005). If the point of departure is taken in the development of offshore and nearshore wind turbines in Denmark as a technology, the *technique* is offshore wind turbines; the *organisation*

can be seen as the framework conditions that are decisive for the expansion of offshore wind power; the *product* is the electricity production; *profit* is the return that the owners of the offshore wind turbine projects achieve through the expansion; and *knowledge* consists of knowledge of how to act as a stakeholder in the offshore wind turbine market to be successful.

As mentioned above, the offshore wind turbine market has been characterised by little or no competition. This may be due to the fact that the market today is partly characterised by a technocratic-institutional approach which recognises that the market is always politically driven and path dependent. With its path dependence, the techno-institutional approach maintains the development in an established direction of development which results in a restriction of the democratic participation and gives power to the established companies (Hvelplund & Arler, 2015)

To ensure greater competition in connection with the tender for offshore wind turbines in Denmark, there is a need for market changes towards a more innovative, democratic approach which can lead to more and new actors gaining access to the market. This would mean that these new actors can create competition to the large energy companies which control the market at the moment (Hvelplund & Arler, 2015). Like the techno-institutional approach, innovative democracy recognises that the market is controlled politically. With this approach, however, focus is on innovation being promoted through possibilities for new actors to bid on the market instead of favouring established actors (Hvelplund & Arler, 2015).

Non-profit organisations and their popular projects are one of the actors, who presumably can help create greater competition in the market for offshore wind farms and thus help affect the market approach, where the consumers are ultimately the owners of the offshore wind farms.

An introduction of non-profit organisations and popular projects in connection with the technology, the expansion of offshore wind turbines and nearshore wind turbines in Denmark will probably result in a change in several of the five technological elements that define the technology, which will result in a radical change of the technology (Hvelplund, 2005).

The product and the technique will remain the same whether large energy companies or a non-profit organisation is in charge of the construction of an offshore wind turbine project.

The profit element will undergo a change, as popular projects can help to create competition for the prices, as the consumers do not have the same requirements for returns as the large companies. This will mean a change in the distribution of profit in the market, as profits from the electricity production will go to the consumers themselves, while the large companies will lose the earnings of which they so far have had a monopoly.

The actual organisation in the shape of framework conditions regarding the expansion of the offshore wind farms in Denmark will probably also have to undergo a change, making legislation and civil service able to create the necessary frameworks for popular projects in a market that has been dominated by large actors so far.

The knowledge element concerns to a great extent know-how within the industry and it is built up through strategic knowledge, which collects and compiles knowledge based on experience, technical knowledge and knowledge about the political system. This will also undergo a development, as an introduction of pop-

ular projects in the offshore wind turbine market will lead to the generation of new knowledge on the possibilities of these new actors' action in the market, developing the competences of both old and new actors in the market.

The impact leading to the change of technology can be seen as an innovative process, since this causes a radical change in the technology. This means that non-profit organisations' entry with popular projects into the market for offshore wind turbines could be defined as an innovative process which can change the conditions for the expansion of offshore wind power in Denmark.

The innovative process is defined by the fact that non-profit organisations have not previously been seen performing in this market, but also that the non-profit organisation must be organised in a new way. Compared to the situation so far where non-profit organisations, seen as organisations, are run by passionate people with a political agenda, this makes them perform more professionally, through professional expertise and financial resources.

One of the mechanisms that is likely to have an impact on the outcome of events in the process, is power. An actor's ability to get their own way depends largely on the process in which they are a part. The actual process depends on the resources that the actors involved can invest in the process. It is the dynamics of the process which are important for the power relationship because the access to and availability of resources, as well as the mobilisation of the alliance partners, have a decisive significance in relation to the balance of power (S. Christensen & Jensen, 2008).

The literature on power describes six different power dimensions which complement each other and they should therefore not be seen as separate dimensions where only one is present (S. Christensen & Jensen, 2008). With this in mind, it is essential to take a closer look at the successes and defeats of Wind People throughout the process on the basis of institutional power, as the tender emerges from a political system and organisation, where routines and standards probably help to affect the decision-making processes.

Institutional features, such as rules and guidelines, can help to build confidence and stability, as these can put incalculable situations in order and act as a guideline in specific situations. The institutional power can be described through the overall acceptance by organisations or political systems that certain world conceptions "just are as they are". Over the years, these world conceptions have become embedded through routines and standards. This means that the historically developed interests are largely carried out without questioning this (S. Christensen & Jensen, 2008). Given that the institutional features are embedded over time through routines and standards, these can also be an obstacle to new development (S. Christensen & Jensen, 2008).

If non-profit organisations shall be able to enter into the market for large offshore wind turbine projects in Denmark and help to create greater competition, some very central and necessary elements must be present. These elements are probably self-evident to the major actors in the market as they are used to developing and operating large projects, unlike most non-profit organisations.

In order for a popular project to enter the market at all, it is necessary for the project to have access to financial capital to support the development of the project, for example through the procurement of technical and legal advisors, thus ensuring the availability of the necessary competencies to the project development and execution. In addition, the implementation of the project will depend on the creation of the

necessary interest and support among the population, as the project funds have to be raised through the Danish electricity consumers.

Given that non-profit organisations have not previously been seen developing and carrying out projects as large as the nearshore wind turbine tender in Denmark, they will also need to be able to create the necessary confidence within the industry, as the project will depend on external actors having enough confidence in the project and the organisation to lend them money and provide materials for them.

It is important to investigate whether these elements are present with the non-profit organisations that are trying to enter into the market for major tenders in Denmark, and whether these elements are present from the beginning, or whether they develop or occur during the process. The report is also open to identifying the need for these, as well as exploring which criteria are actually present and which should further be present in order for the non-profit organisations to succeed.

Non-profit organisations and popular projects probably have some advantages if they enter into the market for offshore wind turbines in Denmark. An advantage is that it will be easier for them to gain popular support, as the consumers themselves own the entire project. As mentioned previously, popular projects will also be able to tender with lower prices because the consumers do not require as high returns as the large companies. At the same time, high prices will also mean high PSO-tariffs, which the consumers have to pay through their electricity bills, while lower prices mean lower PSO-tariffs and thus lower electricity prices for the consumers.

In view of the above theoretical framework, this report takes its starting point, through the current framework conditions, in examining the possibilities for non-profit organisations to operate on the market for major Danish offshore wind turbine projects in Denmark with popular projects.

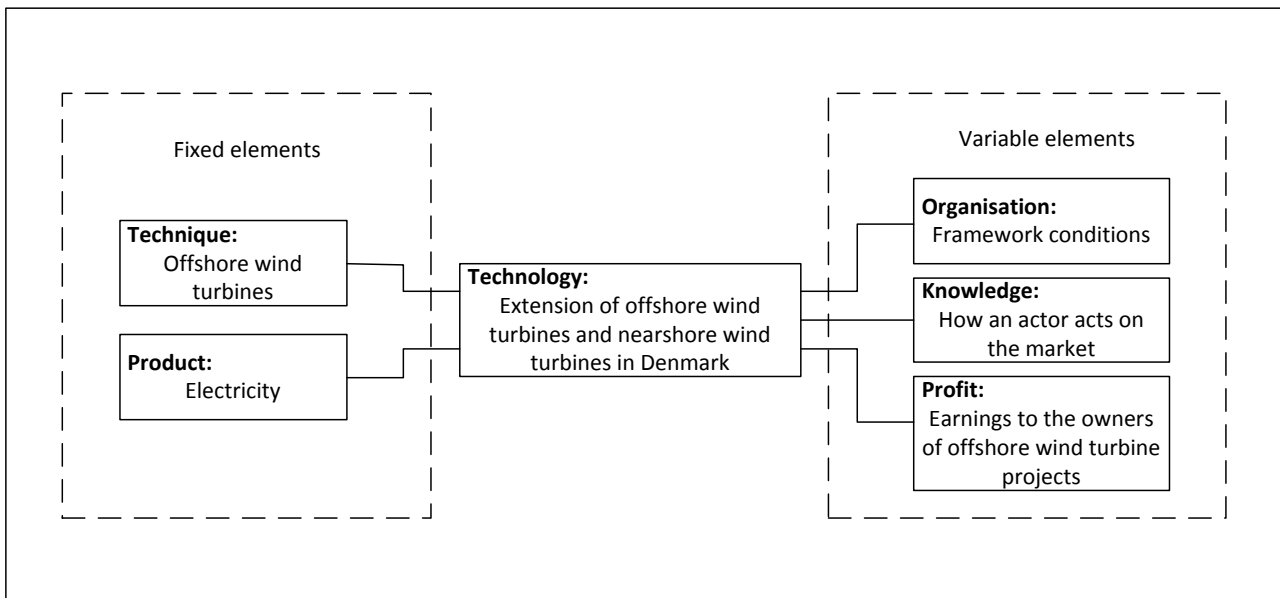


Figure 3: Illustration of "Expansion of offshore wind turbines and nearshore wind turbines in Denmark" as a technology, as well as the five technological elements associated with that (Own illustration).

The theoretical framework describes that there are some fixed and some variable elements in connection with the expansion of offshore wind turbines in Denmark. Figure 3 illustrates the fixed elements that will not be changed by opening the market to popular projects, as well as the variable elements, which have to be changed for popular projects to be granted access to the market. The study of non-profit organisations' tenders treats primarily the elements of *organisation* and *knowledge*. Being characterised by political mechanisms controlling who can bid on the market, these two elements determine whether the popular projects can bid.

3 Method

The purpose of the report is to investigate whether it is realistic, under the current framework conditions that non-profit organisations through popular projects can bid on major nearshore wind turbine projects in Denmark, and what will happen when a non-profit organisation challenges the central system in relation to this. The popular projects of the non-profit organisations are seen as an innovation within the wide range of tenders for offshore wind turbines in Denmark, as these have not previously been seen in this market.

The report takes its starting point in a case study, Wind & Welfare, which is the Danish organisation Wind People's attempt to bid, by use of a popular project, on a tender for 350 MW nearshore wind turbines in Denmark. Thus, Wind & Welfare is the case of innovation which is examined in the report.

The case is described through close cooperation with the organisation Wind People, where the manager of Wind People has recorded a diary throughout the process to which she has given access. Further, continuous close contact to the organisation has been kept through meetings, interviews, emails and telephone conversations.

The description of the case is based on the experiences of Wind People, which is why some of the events may be coloured by Wind People's interpretation of the course of events and the emotions they attach to different experiences.

3.1 Critical case

This report takes its point of departure in Wind & Welfare as a critical case. Critical cases are defined by being of strategic importance to the answer to a general question (Flyvbjerg, 2006). The case can be referred to as a critical case, as its examination is used to answer the question about the opportunities of non-profit organisations to bid on the market for tenders for nearshore wind turbines in Denmark under the current framework conditions.

By looking at the non-profit organisation Wind People and their project Wind & Welfare as a case, the report wishes to show a general picture of the non-profit organisations' opportunities to bid on the offshore wind turbine market, but also to show which criteria must be fulfilled within each individual non-profit organisation to enter into the market.

Critical cases are selected strategically on the basis of a prior assumption that this case is representative of all or many cases in the same area (Flyvbjerg, 2006). Wind People and the Wind & Welfare project were selected based on knowledge that the organisation already fulfilled some fundamental criteria in the form of access to financial resources and internal professional skills which made them able to achieve the necessary competences for the project development in this kind of project and thus to be able to bid on the market.

3.2 Innovation Biographies

In order to understand the innovative process Wind People goes through with the project Wind & Welfare, elements from Innovation Biography are used as an approach to understand the process of the organisation, but also to identify which other mechanisms initiated with actors connected to the project that have influence on the dissemination of the project and thus the innovation.

The basic idea with Innovation Biographies is to investigate how knowledge moves and develops through specific innovation processes from an incipient idea to implementation. This is done through various selected techniques (Butzin & Widmaier, 2015). It should be noted, however, that the project Wind & Welfare is in a preliminary implementation phase of an innovation, which in the case of this report means that the innovation is not followed right up to the final implementation.

The mainstay of Innovation Biographies consists of three parts:

- Focus on knowledge dynamics in connection with specific innovations.
- A biographical time and location perspective on the generation of knowledge.
- An open and qualitative study of the social network related to the innovation.

It can be difficult to document how knowledge moves, as it often does not leave a full paper written track to follow. However, this does not mean that the flow of knowledge cannot be followed. The knowledge can be identified through "The Biographies of Innovation" and can be documented through interviews with persons who are or have been involved in the innovation process (Butzin & Widmaier, 2015). Innovation Biographies go as deeply into the innovation process as possible and build up an understanding of how the internal knowledge in the organisation is related to the external knowledge which flows in from various sources outside of the innovation process. In addition, Innovation Biographies also give a picture of how these relationships evolve over time (Butzin & Widmaier, 2015).

The second element of Innovation Biographies is the time-related approach which makes it possible to follow the learning and development in the innovation process. By looking at the innovation over time, a picture can be formed of how different pieces of knowledge relate to and build on top of each other (Butzin & Widmaier, 2015).

The third element in Innovation Biographies is the investigation of the social network related to the innovation, how this has evolved in the process, which actors are involved when and why, as well as with which inputs the different actors have contributed in the innovation process (Butzin & Widmaier, 2015).

The time perspective along with the in-depth insight in the innovation process is crucial in order to draw up an Innovation Biography for an innovation process. Therefore, an Innovation Biography can be investigated through methods which allow in-depth qualitative sequential analyses. This can be done through e.g. narrative interviews, in which a person with great responsibility in the innovation process has the opportunity to report frankly on the innovation process from idea to implementation (Butzin & Widmaier, 2015).

3.2.1 Wind & Welfare in relation to Innovation Biographies

Wind People's Wind & Welfare project can be seen as an innovation process, as popular projects of this size have not previously been involved in such tenders. It is neither the popular appeal nor the nearshore wind turbine tender that makes the Wind & Welfare project an innovative project. It is the linking of the two elements, where Wind People now tries to challenge major offshore wind turbine tenders in Denmark, so that not only large privatised energy companies can own and operate major offshore wind turbine projects in Denmark, which has been the tradition until now.

In this report, the way of thinking and elements from Innovation Biographies are used to investigate which opportunities non-profit organisations have in Denmark to participate in tenders for major energy projects. This is done through the Wind & Welfare case.

The organisation Wind People is the driving force behind the project Wind & Welfare, which in this report is in focus in order to examine the possibilities for non-profit organisations in connection with major tenders in the energy sector. The report enters into the world of Wind People and works with analysing the innovative process based on Wind People's experiences of the course of events, the attitudes and thoughts. This means that there will be some elements of action in the process which are not discussed in the report, since the report primarily takes its starting point in Wind People's experiences and truth of how the process proceeds.

The report is based on the elements of Innovation Biographies, for which reason it contains an explanation of the process of the Wind & Welfare project, from the project idea to where the project is today at the beginning of 2016. In addition, the actors are outlined who have either been directly connected to the organisation of Wind & Welfare or who have indirectly influenced the process.

3.3 Applied data

In connection with the collection of data for the report, a series of narrative interviews have been carried out with the two key persons from Wind People, Lea Vangstrup and Bjørn Holmgaard. Through the personal interviews, they have been given the possibility to report freely on the innovation process they have gone through with the Wind & Welfare project (Butzin & Widmaier, 2015).

The preparation of the report has taken place while the process of Wind & Welfare was carried out, for which reason it has not been possible to perform only one narrative interview with each of the two people. This is why we, as the authors of the report, have been in continuous close contact with Wind People throughout the process. The contact consists of physical meetings, telephone conversations and e-mail correspondence.

In addition to the direct contact to Wind People, document review has also been used. Wind People has provided the documents that they have drawn up themselves through the project, but also e-mail correspondence that they have had with various stakeholders throughout the process, as well as documents which they have obtained through right of access to documents by the Danish Energy Agency. Furthermore, information has been searched for through, i.a., The Danish Energy Agency's website as well as Wind People's and Wind & Welfare's websites.

In addition, we have searched for information on the websites of various news media in order to clarify the media's coverage of the tender and the procurement process, primarily in relation to Wind People and Wind & Welfare.

A triangulation of the selected data sources has the effect that it is possible to make a broad outline of the innovation process, so an understanding is created of how the information flow and the development throughout the project and between Wind People and the various stakeholders have elapsed.

3.4 Delimitation

The choice of methods in connection with the preparation of this report is based on the theory about Innovation Biographies. It should be noted, however, that Innovation Biographies describe an innovation process from the start until implementation. In connection with the case study of Wind People and the project Wind & Welfare, only a single element is considered in the non-profit organisations' possibility to do popular projects in connection with tenders for offshore wind turbines and nearshore wind turbines in Denmark. It is recognised that work has been performed ahead of Wind People's work with Wind & Welfare and also that there is a lot of work after the process with Wind & Welfare to succeed in implementing the innovation.

This report, however, is limited exclusively to dealing with Wind People's process with Wind & Welfare.

One of the primary sources in connection with the preparation of the report is personal interviews with staff from the Foundation Wind People. This was chosen with reference to the theory about Innovation Biographies to illustrate the process that a non-profit organisation undergoes in connection with bidding on a market which is new to them. Given that Wind People is the primary source in relation to outlining the process, the report includes some strong statements from them. These statements help to outline the process that the foundation has gone through with their attempt to organise the project Wind & Welfare in connection with the tender for nearshore wind turbines. In this connection, it should be pointed out that some of the statements are based on Wind People's experiences of specific situations, and therefore they cannot avoid being affected by their attitudes and feelings. Wind People's experiences, feelings and perceptions of the process and the other actors cannot be questioned nor is this the intention of the report. On the contrary, the intention is to describe the process as seen by the non-profit organisation, which is why making an in-depth and detailed case study of Wind People was chosen. However, the conclusions drawn in the report about the other actors' intentions, hidden agendas, agreements and positions regarding Wind People and Wind & Welfare may be questioned, as the primary source is Wind People and thus the information is coloured by their interpretations. These conclusions can therefore be seen as an introduction to a continued societal discussion, while an analysis of the actors in the tender process should be made simultaneously in order to provide a more varied picture of the process. This is, however, opted out of this report, as a limitation of resources has made this impossible.

The report describes, among other things, Wind People's complaint against the Danish Energy Agency, which proceeds after the pre-qualification of potential bidders for the tender for nearshore wind turbines. In connection with the complaint, the course of events is described, but the quality of the parties' arguments in the case is not assessed. This is because it is not the focus of the report, but also because it is not within the authors' professional skills.

4 The framework conditions for multi-site tender for nearshore wind turbines

The purpose of this chapter is to explain generally the framework conditions for tenders in Denmark. This is done by limiting the description of the framework conditions to those related to the Wind & Welfare case. Therefore, there may be elements that are not described here, but which nevertheless may have an impact on other tenders within renewable energy.

An additional aim of this chapter is to describe the specific tender for 350 MW Danish nearshore wind turbines. This description consists of a review of the bidding process from the political decision on the expansion of nearshore wind turbines to the final tender documents. Thus, this chapter will answer the question:

“What are the current framework conditions for the tender for nearshore wind turbine projects in Denmark?”

4.1 The political background of the tender

It appears from the Energy Agreement of March 2012 that Denmark must increase the share of offshore wind power towards 2020. According to the Energy Agreement, this has to be done through an expansion of offshore wind farms of 1000 MW and nearshore wind farms of 500 MW towards 2020 (Folketinget, 2012). In a fact sheet describing the new framework for nearshore wind turbines, it appears that 50 MW of the 500 MW allocated to nearshore wind turbines are reserved for experimental and demonstration projects. The remaining 450 MW will be put out to tender through six locations for the installation of nearshore wind farms (Energistyrelsen, 2012).

In November 2012, on the basis of a screening report, the Energy conciliation circle designated the six locations where feasibility studies and tenders for production turbines are made. The locations put out to tender are North Sea North, North Sea South, Sejerø Bay, Sæby, Smålandsfarvandet (the sea between Zealand and Lolland-Falster) and Bornholm (Folketinget, 2012). The locations put out to tender are shown in the map in Figure 4.

The 450 MW nearshore wind turbines mentioned in the Energy Agreement were reduced to 350 MW by the Growth Agreement 2014 (Energistyrelsen, 2015b). The tender is a multi-site tender where bidders have the possibility to bid on one or more of the six locations. Not all sites are expected to come into play. The farms must be placed minimum 4 km from the shore and the locations may each accommodate a maximum of 200 MW, except Bornholm, which may accommodate a maximum of 50 MW (Energistyrelsen, 2015b). However, neither the Energy Agreement nor the Growth Agreement mentions how the nearshore wind turbines should be installed.

In the Growth Agreement, it has also been decided to introduce a price ceiling for the nearshore wind turbines, so only bids with a price of DKK 0.70 per kWh can be accepted for the tender (Energistyrelsen, 2014b).



Figure 4: Locations for tender for nearshore wind farms (Energinet.dk, 2014).

4.2 General procurement rules in Denmark

In connection with the Danish State's tender for 350 MW nearshore wind turbines, there are several legal frameworks which lay down the framework for the preparation of the tender notice and the contract documents. These are The Classical Procurement Directive (2014/24/EU public procurement directive), the Treaty on the functioning of the European Union, as well as the "Guidelines on State aid for environmental protection and energy" drafted by the Commission.

The classical procurement directive lays down the procedural rules to be followed in connection with building and construction tasks among other things. The directive lays down, e.g., rules for tender evaluation, selection of suppliers and contract appointments (Udbudsportalen, 2015a). For example, article 58 of the classical procurement directive stipulates that the contracting authority may establish selection criteria within the bidders' financial and economic capacity. This means, i.e., that the contracting authority may request the tenderers to have a certain turnover in order to be included in the tender. This revenue requirement may not as a starting point, however, exceed twice the value of the contract, unless there are special risks associated with tendering under, e.g., building and construction works (Europa-Parlamentet, 2014).

A task must be put out to tender in the EU if the contract associated with the task is considered to exceed a given threshold value set by the European Commission (Udbudsportalen, 2015b). The tender for 350 MW nearshore wind turbines is above the threshold value and therefore the EU procurement rules apply to the tender (Udbudsportalen, 2015c).

For public procurements, it is mandatory that a tender notice is drawn up and published for the tender in question. The tender notice shall specify the legal framework for the process in connection with the tender in question. The EU procurement rules require that the tender notice must contain sufficient information to enable potential tenderers to picture the task and on that background to assess whether the tender is of interest to them (Udbudsportalen, 2015c).

In addition to the tender notice, the contracting entity may choose to prepare tender documents, which give the contracting entity the opportunity to describe and elaborate the details in the tender, for which there was no room in the tender notice. However, it is essential that the information in the tender notice and the tender documents is consistent, since the publication of the tender notice obliges the contracting entity to follow this subsequently (Udbudsportalen, 2015d).

4.2.1 Tender against State aid

The EU state aid rules lay down the framework for the current aid terms for the renewable energy expansion. In the Treaty on the functioning of the European Union, there is a general prohibition on state aid. The purpose of this is to ensure that state aid does not affect the inter-state trade between the EU member states and does not distort the conditions of competition in the internal market (Energistyrelsen, 2015e).

The EU Commission has, however, the only authority to approve state aid compatible with the internal market and thus to assign state aid in connection with tendering. The EU Commission has pursuant to their authority issued a series of framework conditions for supportive measures which apply within various areas of the law (Energistyrelsen, 2015e).

The framework conditions for state aid measures which apply in connection with the tender for 350 MW nearshore wind turbines are "guidelines on state aid for environmental protection and energy 2014-2020". The goal of these guidelines is to ensure the implementation of climate and energy policy objectives in such a way that the state aid does not distort the competition and damage the inter-state trade in the EU (Energistyrelsen, 2015e).

In order for state aid to be granted, the aid must be proportional with the task, which means that the amount of the aid may be the minimum amount that is necessary to achieve the energy and environmental objectives. It appears from paragraph 80 of the guidelines when the state aid can be given:

Where aid to the beneficiary is granted in a competitive bidding process on the basis of clear, transparent and non-discriminatory criteria, the aid amount may reach 100 % of the eligible costs. Such a bidding process must be non-discriminatory and provide for the participation of a sufficient number of undertakings. In addition, the budget related to the bidding process must be a binding constraint in the sense that not all participants can receive aid. Finally, the aid must be granted on the basis of the initial bid submitted by the bidder, therefore ex-

cluding subsequent negotiations” (EUROPA-KOMMISSIONEN, 2014)(translated from Danish).

The information from the Commission (2014/C 200/01) “Guidelines on State aid for environmental protection and energy 2014-2020” further states in relation to "operating aid granted to energy from renewable sources":

"3.3.2.1. Aid for electricity from renewable energy sources

124. In order to incentivise the market integration of electricity from renewable sources, it is important that beneficiaries sell their electricity directly in the market and are subject to market obligations. The following cumulative conditions apply from 1 January 2016 to all new aid schemes and measures:

(a) aid is granted as a premium in addition to the market price (premium) whereby the generators sell their electricity directly in the market

(b) beneficiaries are subject to standard balancing responsibilities, unless no liquid intra-day markets exist; and

(c) measures are put in place to ensure that generators have no incentive to generate electricity under negative prices.

125. The conditions established in paragraph (124) do not apply to installations with an installed electricity capacity of less than 500 kW or demonstration projects, except for electricity from wind energy where an installed electricity capacity of 3 MW or 3 generation units applies.

126. In a transitional phase covering the years 2015 and 2016, aid for at least 5 % of the planned new electricity capacity from renewable energy sources should be granted in a competitive bidding process on the basis of clear, transparent and non-discriminatory criteria."(EUROPA-KOMMISSIONEN, 2014) (translated from Danish)

Thus, the contracting entity should be aware of a number of considerations when preparing tenders against state aid in the field of renewable energy, which must follow a tendering procedure that is clear, transparent and non-discriminatory.

4.3 The tender for 350 MW nearshore wind turbines in Denmark

In the autumn of 2012, the Danish Energy Agency gave the first framework for the expansion of nearshore wind turbines. Here, the emphasis is on the bidding process showing that focus is on competition, as well as on the lowest consumer cost. The framework also demands that a minimum of 20% of the projects must be put out to tender to local businesses and citizens under the purchase option provisions, as is so far known from onshore wind turbines (Energistyrelsen, 2012).

In August 2013, The Danish Energy Agency publishes "450 MW nearshore wind turbines – New Danish tender". The publication was an invitation to interested parties to participate in the development of the bidding process, as the Danish Energy Agency wants a transparent and open process with the possibility of dialogue on the framework conditions and the tender conditions (Energistyrelsen, 2013). The publication is not, however, an opening of the technical dialogue, which is kicked off in 2014.

The contract model which the Danish Energy Agency has chosen to apply to the tender for nearshore wind farms is based on tenders negotiated in combination with technical market dialogue and pre-qualification (Energistyrelsen, 2013). This means that after the pre-qualification, the Danish Energy Agency lets the pre-qualified bidders provide an initial bid, after which they will initiate a negotiation with these. After the round of negotiations, the tenderers have the opportunity to make a binding offer, on the basis of which the Danish Energy Agency make a decision on the winner(s) of the tender. This model has been selected based on a wish to increase the competition on the tender, thus ensuring the lowest possible price per kWh (Energistyrelsen, 2013). In connection with the tender, the Danish Energy Agency wants to conclude a concession contract and the tender will therefore follow the form that applies to this (Energistyrelsen, 2013).

Concession contract

"Therefore, the definition of concession should be clarified, in particular by referring to the concept of operating risk. The main feature of a concession, the right to exploit the works or services, always implies the transfer to the concessionaire of an operating risk of economic nature involving the possibility that it will not recoup the investments made and the costs incurred in operating the works or services awarded under normal operating conditions even if a part of the risk remains with the contracting authority or contracting entity." (EUROPARLAMENTET OG RÅDET FOR DEN EUROPÆISKE UNION, 2014 (s. 3)) (translated from Danish)

The operating risk transferred, must be outside the concessionaire's control, which means, that e.g. economic mismanagement on the part of the concessionaire cannot be regarded as an operational risk. (EUROPARLAMENTET OG RÅDET FOR DEN EUROPÆISKE UNION, 2014) (translated from Danish)

The bidding process

The bidding process consists of a series of steps, leading to a final selection of the winners of the tender. These steps are (Energistyrelsen, 2013);

1. Technical dialogue with interested investors and bidders
2. Publication of the tender notice and tender conditions
3. Pre-qualification of bidders
4. Negotiations with pre-qualified bidders
5. Publication of the final tender documents
6. Call for final tenders
7. Selection of the winner and signing of contract

As previously mentioned, and not evident from the Danish Energy Agency's seven points, the pre-qualified bidders will make a preliminary bid prior to the negotiation with the Danish Energy Agency and the submission of the final tender.

The expected tender schedule is that the winner of the tender will be appointed in the Spring of 2016 (Energistyrelsen, 2013).

As mentioned, this report focuses on the process of the project Wind & Welfare. As Wind & Welfare did not succeed to pre-qualify in connection with the tender, this report does not deal in more detail with the bidding process after the pre-qualification of the potential bidders. This means that the report does not go into detail with the tender process steps 4 to 7.

Award criteria

The publication "450 MW nearshore wind turbines – New Danish tender" also describes the Danish Energy Agency's central award criterion on which they want to base the selection of the winner(s) of the tender. This award criterion is the price per kWh, on the basis of a desire to achieve the overall lowest price (Energistyrelsen, 2013).

4.3.1 The technical dialogue

A technical dialogue is a possibility for contracting authorities in connection with a tender; however, it is not a requirement. The technical dialogue gives the authority the opportunity to have a dialogue with the market and adapt the tender according to the inputs (Konkurrence- og Forbrugerstyrelsen, 2013).

In April 2014, The Danish Energy Agency publishes the material "Discussion paper for the technical dialogue on the tendering procedure for the Danish nearshore wind farms", which is a proposal for the tender documents, which should be seen as an introduction to the technical dialogue. In May 2014, the technical dialogue is officially kicked off at a seminar organised by the Danish Energy Agency for potential bidders for the tender (Energistyrelsen, 2014a).

In the material, the Danish Energy Agency puts forth a series of discussion questions while preparing the ground for potential bidders to ask further questions. The technical dialogue must take place through written comments as well as bilateral meetings in which the various parties discuss the issues that are questioned (Energistyrelsen, 2014a).

These meetings were held in June 2014, after which the deadline for written comments to the tender was set to 4 August 2014 (Energistyrelsen, 2014a). Subsequently, the Danish Energy Agency published a compilation of the key points of the technical dialogue and their attitudes to these, prior to their final work with the tender notice for the tender for nearshore wind turbines (Energistyrelsen, 2015g).

The benefit of the technical dialogue

The focus of the key issues raised in connection with the technical dialogue was on the following topics (Energistyrelsen, 2014b):

- 1. Overall contract model**, including the maximum size of the plants, the number of farms within the same location as well as omission of grid connection from the projects.
- 2. Time frame**, including a too tight time frame for the tender and retention of time frame after withdrawal.
- 3. Grid connection**, demand for a major level of detail in relation to the grid connection regime.
- 4. Pre-qualification criteria**, change of economic requirements as well as requirements for technical experience.

5. **Award criterion**, demand for description of priority between the different bidders, as well as the wish to involve local ownership.
6. **Purchase option agreement**, several would like to have this removed.
7. **The Loss of value agreement**, removal of this or a ceiling on how much the concessionaire can end up paying for the agreement.
8. **Possibility for test unit in the farm**, the tender gives no incentive for test of new units in the farms.

The Danish Energy Agency's response to the majority of the issues and questions raised was that there was no possibility for changing the conditions nor could they see any reason to do so, although several potential bidders questioned the issues. This had its effect in relation to increasing the incentive for testing of new units, the maximum size of the installations and the omission of the grid connection. In relation to the degree of detail of the grid connection regime, the Danish Energy Agency will have a seminar on this subject later in the process (Energistyrelsen, 2014b).

The time frame for the completion date of the projects is covered by the energy settlement for 1 January 2020 and can therefore not be changed, but the Danish Energy Agency will check whether the time frame can be loosened in other ways. At the same time, they acknowledge that it is essential that the time frame is retained after withdrawal (Energistyrelsen, 2014b).

In relation to the pre-qualification criteria, the majority of the potential bidders recommend a relaxation of the economic demands in connection with the pre-qualification. Instead of a revenue requirement, an emphasis on solidity and corporate rating is proposed. Furthermore, questions are raised in relation to the technical capacity which the bidders must possess to be able to get pre-qualified, and it was proposed that it should be possible to purchase or accomplish this through experience with onshore wind turbines (Energistyrelsen, 2014b).

The Danish Energy Agency assures that prior to the publication of the pre-qualification criteria they will find an appropriate level which ensures that bidders have the necessary financial and technical capacity, which at the same time ensures a wide spectrum of stakeholders. At the same time, The Danish Energy Agency points out that the financial requirements will probably contain a revenue requirement together with either solidity or rating. In relation to the technical capacity, the Danish Energy Agency will not ease the requirements for the experience with offshore wind turbines (Energistyrelsen, 2014b).

4.3.2 The Danish Energy Agency's prior analysis of pre-qualification requirements

Prior to the drafting of the tender notice, the Danish Energy Agency had a consultant, the company Deloitte, prepare analyses of pre-qualification criteria for the tender. The analysis contains analyses of the technical requirements, as well as the financial requirements related to the criteria for the pre-qualification (Deloitte, 2013). The analysis does not include direct recommendations for specific criteria, but includes evaluations of the consequences of various criteria that the Danish Energy Agency can apply in their deliberations in connection with the preparation of the tender notice.

It appears from the analysis of the technical criteria that the major energy companies are not expected to bid in connection with the tender, for which reason the pre-qualification criteria should open up for other bidders. Deloitte examines, i.a., five groups of potential bidders, international energy companies, regional

energy companies, "open door" applicants¹, international project developers and pension funds/private equity funds. For each of the five groups, a number of companies are evaluated and ranked in relation to their competences within the development and operation of onshore and offshore wind turbine projects, respectively. The analysis also points out how the choice of pre-qualification criteria can affect which of the potential bidders included in the analysis can be pre-qualified in connection with the tender (Deloitte, 2013).

Moreover, Deloitte points out in the analysis that the success criterion for the number of pre-qualified potential bidders should be between 6 and 10 bidders in order to create the necessary competition in connection with the tender (Deloitte, 2013).

The analysis of the financial criteria points out a series of challenges associated with establishing financial requirements for the tenderers as they structure their financial balance sheets in different ways. This means that it will be difficult to put forward financial minimum requirements which can apply to everyone. For instance, emphasis is on the diversity between bidders which are subject to the accounting law and the financial business act, respectively, as the latter will not have a particularly high equity ratio² in relation to the former, for which reason special requirements should apply to the financial companies. Furthermore, emphasis is also on the diversity between a municipality and a commercial bidder as an example of how the financial requirements can have a significant influence on who can be part of the tender (Deloitte, 2013)

The financial analysis also relates to criteria for guarantee and collateral security, where joint and several liability in connection with the formation of a consortium is considered among other things. This would mean that if a party in the consortium goes bankrupt, the other parties in the consortium will have to undertake this party's tasks in connection with fulfilling the contract. Deloitte points out that a requirement for joint and several liability could have an impact on the Danish Energy Agency's desire for financial actors included in the consortia, as these will have difficulty being jointly and severally liable (Deloitte, 2013).

The analyses are conducted prior to the preparation and publication of the tender notice for the tender, as well as for the technical dialogue, and the Danish Energy Agency can thus use the results of this and the technical dialogue in their deliberations and decisions in connection with the preparation of the pre-qualification criteria laid down in the tender notice.

4.3.3 The tender notice and tender documents

On 25 February 2015, the Danish Energy Agency publishes "Contract notice 2015/S 039-065965" for the tender for 350 MW Danish nearshore wind turbines (hereinafter referred to as the tender notice). As mentioned earlier in this chapter, the tender notice stipulates the legal framework for the tender and the bidding process.

The tender notice describes the criteria laid down in the contract, including how the tender concerns 350 MW instead of the previously mentioned 450 MW, among other things. In addition, the tender is a multi-

¹ Actors who apply for permission to install offshore wind turbines outside tender. This means that the actors themselves take the initiative to apply for the establishment of wind turbines in an area (Energistyrelsen, 2015j).

²The equity ratio is a ratio of how resistant a company is to any losses. The equity ratio shows as a percentage how much of the company's funding takes place through the equity. A high equity ratio means great economic resistance while a low equity ratio means a higher economic risk (e-conomic danmark a/s, 2015).

site supply, which means that bidders can bid on the six sites included in the tender. A price limit is established, so that only bids with a price of DKK 0.70 per kWh or less will be accepted. This may be waived, however, provided that there are not sufficient bids below DKK 0.70 per kWh (Energistyrelsen, 2015i).

The tender notice also maintains that the contract awarded to the winner of the tender is a concession contract, and that the winner(s) of the tender will be selected on their ability to establish the overall largest capacity within the 350 MW, at the lowest price per kWh (Energistyrelsen, 2015i).

In order for a party to be allowed to make bids on nearshore wind turbines, they have to be pre-qualified for which the tender notice also sets requirements. These requirements are (Energistyrelsen, 2015i):

- The applicant must present an average turnover of DKK 4 billion over the past three years.
- The applicant must have an equity ratio of 20% or more. For financial institutions, however, they must have a credit rating of BBB- or more (Standard & Poors and Fitch) and/or Baa3 or more (Moody's) or an equivalent rating from another recognised credit rating agency.
- The applicant must have at least one reference to an offshore project with an installed capacity of minimum 30 MW within the last five years.

The revenue requirement has been defined in such a way that if a company or a consortium has been founded in order to bid in connection with the tender, the partners must have a combined average revenue of DKK 4 billion over the past three years (Energistyrelsen, 2015i).

It applies to the requirement for an equity ratio of minimum 20% that all the economic parties in connection with an application must meet the requirement individually for the equity ratio or the credit rating (Energistyrelsen, 2015i).

In addition to the tender notice, the Danish Energy Agency published a Pre-Qualification Questionnaire (PQQ), which is a document that points out the pre-qualification questions that potential bidders must respond to in the application for pre-qualification. Furthermore, the PQQ also gives examples of the minimum requirements to the application, as well as information about the selection of bidders (Energistyrelsen, 2015g).

On 4 May 2015, the Danish Energy Agency published the preliminary tender documents for the tender, which supplements the tender notice. The tender documents describe the most important requirements for the concessionaire (winner/winners of the tender). One of the requirements is the concessionaire drawing up a time frame for how they will ensure the connection of the entire nearshore wind farm to the collective grid by 1 January 2020. The time frame must be approved by the Danish Energy Agency, and along with the time frame the concessionaire must also have a signed agreement with Energinet.dk and/or a local power grid company. The agreement must confirm the primary elements between the parties during the start-up phase (Energistyrelsen, 2015c).

Timetable for the award of the concession contract (Energistyrelsen, 2015c):

- *From the publication of the result of the pre-qualification process up to and including 4 October 2015*
 - Questions may be asked – questions must be in English and submitted in writing

- *20 October 2015*
 - Deadline for preliminary bids
- *From 30 October through 4 March 2016*
 - Questions may be asked – questions must be in English and submitted in writing
- *Early November 2015*
 - The Danish Energy Agency issues a memorandum with the topics and questions that will be included in the negotiations with bidders
- *At the end of 2015/early 2016*
 - Negotiations between the Danish Energy Agency and bidder
- *Early 2016*
 - Publication of the final tender documents
- *4 April 2016*
 - Deadline for binding offers from bidders
- *April 2016*
 - Settlement of tender (expected)

As mentioned, this report only deals with the tender process up until the pre-qualification, for which reason the bidding process is not followed all the way through. By the end of writing this report, February 2016, the publication of the final tender documents is awaited, after which the pre-qualified bidders may submit their tenders and the winner must be identified.

5 The process of the Wind & Welfare project from the beginning to the end

The purpose of this chapter is to describe the process of the Wind & Welfare project through their attempt to be allowed to bid on the 350 MW Danish offshore wind turbines. The driving force behind the project Wind & Welfare is the non-profit organisation Wind People, and it will therefore to a wide extent be their work with the project that will be described throughout the chapter.

The chapter begins with a description of the project Wind & Welfare, after which the process of the project is neutrally described; however, seen through the eyes of Wind People. This leads to answering the question:

“How has the process been for the organisation Wind People in connection with the project Wind & Welfare?”

5.1 The Project Wind & Welfare

The aim of the project Wind & Welfare is to make a popular project where Danish electricity consumers have the opportunity to buy shares equal to their consumption. This will be done by building up a company, Wind & Welfare K/S, which should make it possible for the Danish electricity consumers themselves directly to be co-owners of two nearshore wind farms (Vangstrup, 2015h). The primary purpose of making such a public tender is to keep the renewable energy production in Danish hands, which will ensure that the energy prices are kept low, and at the same time competition is generated in the energy market, which will benefit the national economy (Vangstrup, 2015h).

5.1.1 Consortium for Wind & Welfare

In order to meet the Danish Energy Agency's requirements for the pre-qualification of bidders in connection with the tender for nearshore wind turbines, it is necessary to establish a consortium, which ensures that the project can meet both the financial and the technical requirements for the pre-qualification. Based on the Danish Energy Agency's requirements, the consortium for Wind & Welfare will have to be composed of three parties: The limited partnership Wind & Welfare K/S, the Ærø Foundation and a company with a turnover of a minimum of DKK 4 billion annually. The Danish Energy Agency requires that all parties entering into a consortium at the tender are jointly and severally liable for the project.

5.1.1.1 The structure of the consortium

Figure 5 shows the structure of the consortium around Wind & Welfare. The consortium comprises the limited partnership Wind & Welfare, which consists of the electricity consumers and Wind People, where Wind People are liable for loans raised outside the consortium. Next, the Ærø Foundation, which is the founder of the consortium Wind & Welfare and which has an equity ratio of over 20%. The last party is a company that can deliver a turnover of at least DKK 4 billion over the past three years and at the same time meet the requirement for an equity ratio of at least 20% (Vangstrup, 2015g). These three parties are apparent within the borders of the consortium in Figure 5.

The Danish Energy Agency's requirement that all partners in the consortium are jointly and severally liable means that if something unexpected happens, causing the project to go over budget, all parties could be held financially responsible for this. This means that if a consortium consists of three parties, and two of

which are not able to pay contingencies, the Danish Energy Agency can require the third party to cover all the unforeseen expenses alone.

In the case of Wind & Welfare, however, Wind People has found an insurance company that will insure the company which enters the consortium with their turnover, as well as the Ærø Foundation with the joint and several liability, so that these will not be held responsible for unforeseen expenses associated with the project (Vangstrup, 2015g). This is shown by the dashed line around the two parties in Figure 5.

Figure 5 also shows that the financing of the project is raised outside the consortium in the form of bank financing, where the bank provides a loan of 70% of the project's financing. The last 30% are provided by the limited partnership, through the sale of shares to the Danish electricity consumers (Vangstrup, 2015g). In order for Wind People to make a bank provide a loan of 70% of the funding, the bank requires that the project budgets for a surplus of 10%, as a security which can cover unforeseen expenditures. In case the project goes over budget, the bank will take over the project and complete it, and then sell the project so they can retrieve the money (Vangstrup, 2015g).

Consequently, Wind People work on establishing a consortium in order to be able to meet the Danish Energy Agency's claim for an equity ratio of 20% and the revenue requirement of DKK 4 billion. Thus, they also have to meet the Danish Energy Agency's requirement for joint and several liability in connection with the establishment of the consortium. With Wind People's organisation of the consortium, the relevance of these requirements may be questioned, as the company with the turnover, as well as the Ærø Foundation, will be exempted from financial responsibility by insurance in the case of Wind & Welfare. In reality, this means that the consumers buying the shares are primarily the ones taking a risk. By exceeding the project budget in excess of the 10% which is the surplus that the project budgets for, the shareholders will lose the investment in shares to the bank taking over the project. The bank will also run a minimal risk, given that they take over the project if it exceeds the budget, in order to finalise and resell it afterwards. Given that the limited partnership itself accounts for 30% of the project financing, the bank has a large buffer before it will lose money by taking over the project. It can therefore be questioned if the revenue requirement actually has a purpose, as the company with the turnover, in the case of Wind & Welfare, only appears in order to live up to the requirements of the Danish Energy Agency without running any risk.

The last element which appears in Figure 5 is technical capacity. The technical capacity does not need to be a part of the consortium, however, but it can be bought from an external source, and therefore it appears outside the consortium's definition in the figure. In connection with Wind & Welfare, a cooperation is established with the K2 Management consulting engineers, who have the necessary experience with offshore wind turbines (Vind og Velfærd, 2015a).

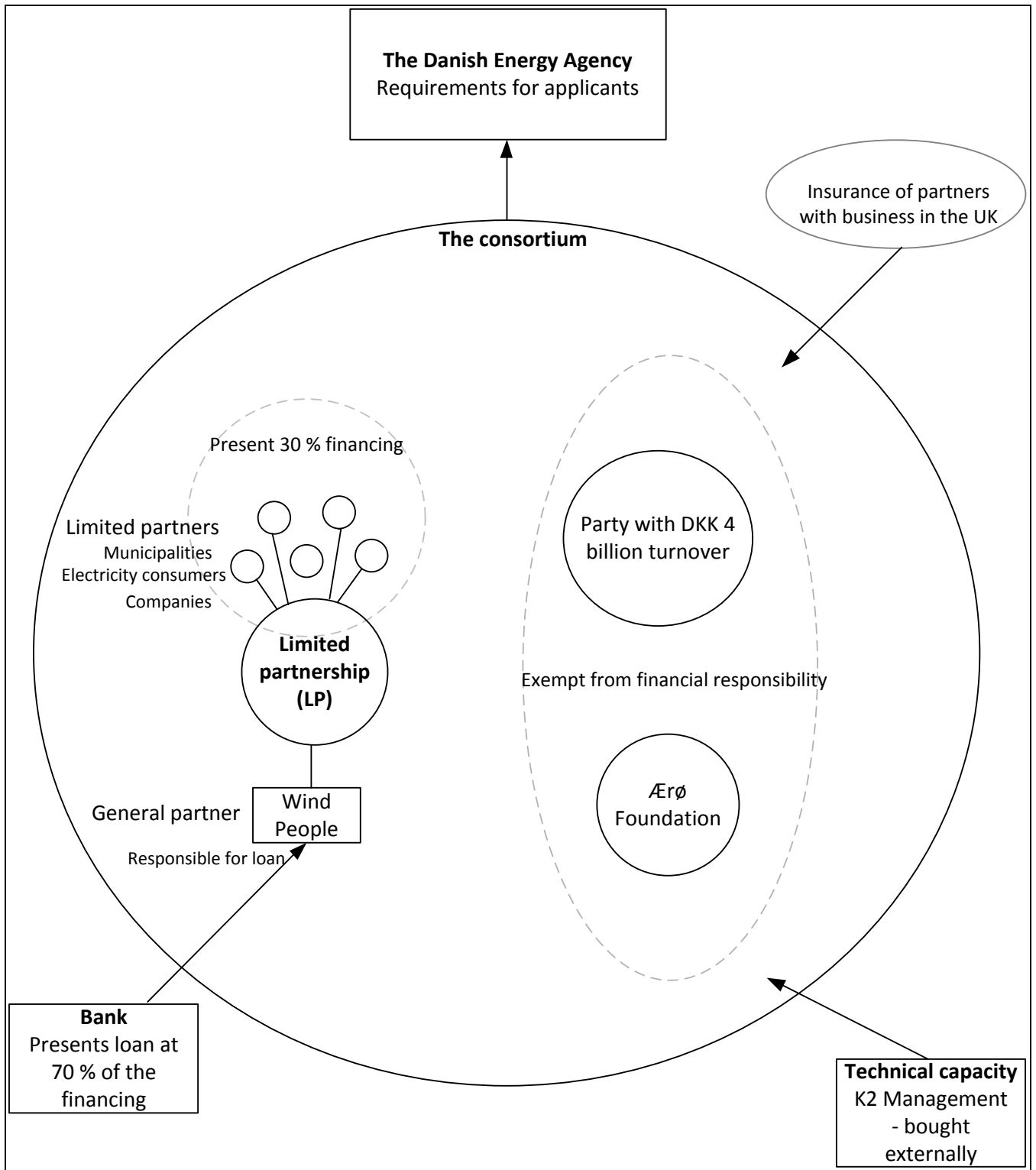


Figure 5: Ownership model for Wind & Welfare, as a result of the Danish Energy Agency's tender conditions in connection with the tender for nearshore wind turbines. Detailed description of the figure appears in paragraph 5.1.1.1 above (Own illustration, drawn up in collaboration with Lea Vangstrup (Vangstrup, 2015g)).

5.1.1.2 The Limited Partnership Wind & Welfare

A limited partnership consists of two types of partners – general partners and limited partners. The general partners have unlimited and personal liability for the debts of the company. In the case of several general partners being included in the company, these shall be jointly and severally liable in connection with the commitments. The limited partners are the owners of the company and these are liable only for the capital that they have invested in the company (Erhvervsstyrelsen, 2015).

In connection with the company Wind & Welfare K/S, the general partners will consist of a subsidiary of Wind People, which will be established for this purpose (Vind og Velfærd, 2015a). This subsidiary will be responsible for 70% of the project's financing, which will be available as a loan from one or more banks (these are not part of the consortium), which in turn have a security in the project. This means that if the project budget is exceeded, the bank/banks will take over and complete the project in order to sell it subsequently. However, the banks require that the project is budgeted with a surplus of 10%, so that there is a buffer for unforeseen expenditures in the project (Vangstrup, 2015g).

The limited partners will be the Danish electricity consumers who choose to buy shares in the company. The limited partners will be responsible for 30% of the project's financing, which is generated through the sale of the shares. The domestic consumers will initially have the chance to buy two shares, amounting on average to their own electricity consumption. Companies and municipalities will, however, be able to buy more shares, so that they can own shares corresponding to their electricity consumption (Vangstrup, 2015g). In connection with the project, about 1.4 million shares have to be sold at a price of about DKK 5,000. As European banks are willing to co-finance the shares with 70%, as mentioned, this means in reality that the self-investment in a share will be DKK 1,500.

Wind People will put up the shares for sale to five different groups which are (Vind og Velfærd, 2015a):

- Private electricity consumers, which means everyone with a Danish CPR number.
- Corporate employees – companies with a VAT number in Denmark
- Municipalities, which will be able to buy through a municipal holding company
- Sejerø Bay Foundation & Smålandsfarvandets Foundation
- Neighbours to the farms within the agreement of option to purchase

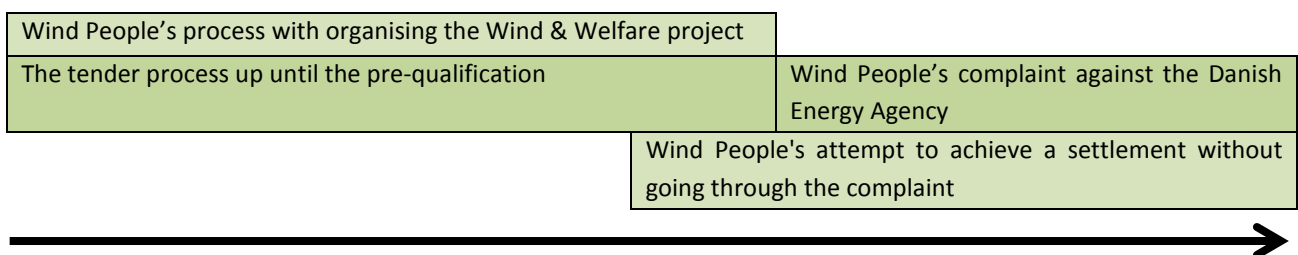
The shares will be sold prior to the decision on whether the project wins the tender or not. This means that if Wind & Welfare does not win the tender, the investments in shares will be refunded to the buyers of shares. DKK 50 per share will go to Wind People for their work with the organisation of the project and the tender, however, regardless of whether the tender is won or not (Vind og Velfærd, 2015a).

The Ærø Foundation grants DKK 2 million to the organisation of the project, which will be described in more detail in the next paragraph. If the project wins the tender, the first profits will thus go to repaying the Ærø Foundation. If the tender is not won, however, the foundation's contribution to the project will be lost. Furthermore, the Ærø Foundation and the Wind People Foundation could own more shares than the "normal" shareholders, as they have been responsible for organising the project, and they need shares to generate capital for further non-profit projects in the future (Vangstrup, 2015g).

5.2 The tender process up until the pre-qualification

In order to create an overview of the process that Wind People has gone through in connection with the project Wind & Welfare, it was decided to divide the process into various courses of action, which make up the process from the beginning to the end. Some of the courses of action progress in parallel and, of course, have influence on each other, which will be explained in each of the courses of action. The process is divided into the following courses of action;

- Wind People's process with the organisation of the Wind & Welfare project
- The tender process up until the pre-qualification
- Wind People's complaint against the Danish Energy Agency
- Wind People's attempt to achieve a settlement without going through the complaint

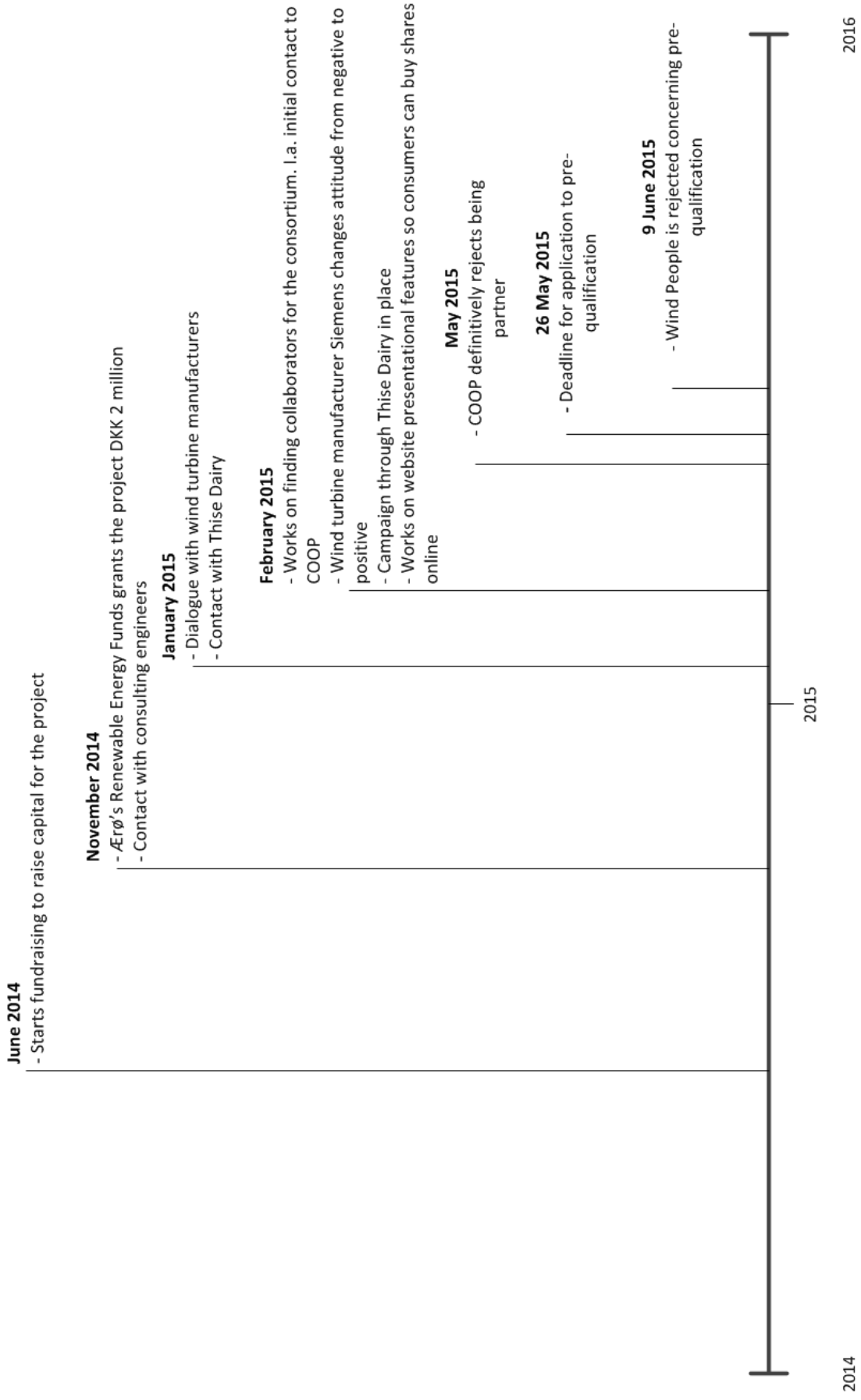


Each of the individual courses of action contains a series of events, which are described under each course of action in this paragraph.

5.2.1 Wind People's process with organising the Wind & Welfare project

Primarily since May 2014, Wind People has been working with the organisation of the consortium in relation to the project Wind & Welfare but there are also thoughts and work prior to this. This subsection describes Wind People's process of organising the Wind & Welfare project starting in June 2014, when they begin to fundraise to raise capital for the project to provide the necessary external resources to realise the project.

Timeline for Wind People's process of organising the Wind & Welfare project



5.2.1.1 Fundraising (June – November 2014)

In order for the project Wind & Welfare to have a chance to be implemented, it is essential that Wind People raises capital for the organisation of the project up until the pre-qualification and the sale of shares to the private consumers. In June 2014, they start the fundraising in order to raise money for the project. From day one, Wind People had a budget, which meant that they needed to find a minimum of DKK 2 million for the project to purchase consultancy services, salaries, etc., as well as for the campaign which should ensure the sale of shares to the private consumers (Vangstrup, 2015a). In order to be able to cover the costs of the construction of the offshore wind farm, Wind People has to sell about 1.4 million shares of around DKK 5,000 each (Vind og Velfærd, 2015a).

In the fundraising process, Wind People goes through about 100 different foundations to find the ones within the objects clause. As a result of this review, they could apply for funds from seven foundations, of which all but one turned down the application (Vangstrup, 2015a).

The Ærø Foundation granted DKK 2 million to the project Wind & Welfare. Lea Vangstrup from Wind People is a member of the board of this foundation, the purpose of which is to dare take the initiative to projects which otherwise would not be initiated. The grant for the DKK 2 million went through just before November 2014, for which reason Wind People could not really start organising the project Wind & Welfare until this time (Vangstrup, 2015a).

In the event that Wind People win the tender for the nearshore wind turbines, the Ærø Foundation will get their DKK 2 million back. If the project does not win the tender, the foundation's money will be lost, so this is the risk they run by granting the DKK 2 million to the project (Vangstrup, 2015g).

5.2.1.2 Advisors (November 2014)

In November 2014, Wind People start to find a Danish consultant for the project. This proves not to be an easy task. Wind People contacts four of the large Danish consultants in the offshore wind area: COWI, NIRAS, K2 Management and Rambøll (Vangstrup, 2015a).

COWI is already cooperating with another party which would tender for the nearshore wind turbines, and therefore they cannot enter as a consultant for the Wind & Welfare project as well. Wind People has a positive dialogue with Rambøll, but has a feeling that they are not particularly experienced in the area, with which Wind People does not feel comfortable.

Wind People also contacts NIRAS, as they are told that NIRAS is one of the consultants with the most experience in setting up foundations. Wind People has a feeling, however, that their initial approach to NIRAS is not taken seriously and it is difficult to get an answer from them. However, after a dialogue NIRAS change their attitude and after speaking to several people they give a price quotation on consultancy (Vangstrup, 2015a).

The last consultant Wind People contacts is K2 Management. K2 Management has been somewhat overlooked in Denmark, as they have not been in charge of a purely Danish project. However, this does not mean that they are not experienced in this area, as they are a company that exclusively runs wind turbine projects and has been responsible for a large number of foreign projects. K2 Management ends up being cheaper than NIRAS and therefore becomes the consultants for the Wind & Welfare project (Vangstrup, 2015a).

In addition to the consulting engineers, Wind People also hires legal assistance in connection with the organisation of the tender. In advance, Wind People has told the lawyer they usually use that they plan to bid on the tender. The lawyer had indicated in advance that they would assist, but when Wind People contacts them when the tender becomes a reality, they are already committed elsewhere. The lawyers, however, refer Wind People to two other lawyers which Wind People can contact (Vangstrup, 2015g).

The two lawyers that Wind People are referred to are Kromann Reumert and Clements Law. Kromann Reumerts cannot take the task as one of their core customers is DONG Energy, and thus they will not run the risk of representing a competitor to them. Clements Law would like to take on the task, and the person assigned to the task has extensive experience in the field, which is an advantage to Wind People. This person also proposes that Wind People should contact K2 Management as consulting engineers on the project (Vangstrup, 2015g).

5.2.1.3 Turbine suppliers (January 2015)

In cooperation with their consultant K2 Management, Wind People has worked on finding suppliers for the Wind & Welfare project. However, it turns out not to be the easiest task for them to find a supplier who will provide the turbines for the project (Vangstrup, 2015a).

Wind People contacts the two Danish wind turbine manufacturers, Vestas and Siemens, which are the only two type-approved models in Denmark. In addition, they also contact a number of foreign manufacturers: the French ALSTOM, the German Senvion and the Chinese Envision. No contact is made with further foreign manufacturers, as these are the types which could realistically be type-approved, and to get them approved may take from weeks up to a year (Vangstrup, 2015a).

In January, both Vestas and Siemens announce that they would not supply turbines for the project. (Vind og Velfærd, 2015a) Therefore, the reality of Wind People seems to be foreign wind turbines, which must be type-approved in Denmark before they can be allowed to deliver turbines to a Danish project (Vangstrup, 2015a).

The reason why Vestas would not supply turbines for the project is that they are about to re-examine their strategy, and therefore they are not able to take a position on Wind People's comments at that time (Vestas, 2015). Siemens justifies their refusal with the fact that they do not have the resources to take on the task (Vangstrup, 2015a).

However, Siemens subsequently returns to Wind People's consultants saying that they still would like to cooperate and provide turbines for the project (Vangstrup, 2015g).

5.2.1.4 Collaborators (February-May 2015)

Concurrently with the dialogue with the wind turbine suppliers, Wind People gets in contact with Thise Mejeri (Thise Dairy), who wants to be included in the cooperation about Wind & Welfare. By means of a campaign of one million milk cartons a week for six weeks, Thise Mejeri offers to help with the marketing of the project and to give the Danish electricity consumers the opportunity to own wind turbine shares (Vind og Velfærd, 2015a).

The Wind & Welfare project needs a partner in the consortium with an average turnover of a minimum of DKK 4 billion over the last three years in order to meet the requirements of the tender notice for the near-shore wind turbines (Energistyrelsen, 2015i).

Thise Mejeri suggests that Wind People contacts COOP, where after Lea Vangstrup takes contact to Coop's responsible manager. COOP's reaction to the request from Lea Vangstrup was, in the first place, that they had not dealt with energy before. They were not, however, totally dismissive of the project, and the responsible manager would return to Wind People after two weeks, when having heard the COOP system (Vangstrup, 2015b). However, in May 2015, COOP informs that they will not be a partner in the consortium. They acknowledge, however, the project and offer to market the project in all their stores (Vind og Velfærd, 2015a).

Wind People has tried to find collaborators with a turnover of more than four billions on an annual basis. All the Danish companies with such a turnover that Wind People contacts do not want to join the consortium, since they do not want to take on the risk and be held jointly and severally liable for a popular project. However, a large part of the companies has, like COOP, recognized the project (Vind og Velfærd, 2015a).

5.2.1.5 Financial partners

In their attempt to find banks that want to give loans to the project, Wind People has not succeeded in finding a Danish bank which would go into the project. In the process, they have been in contact with both Danish and foreign banks, which have reacted in different ways. Most banks have been positive about the Wind & Welfare project and have seen it as a positive project, even though they have not been able to enter into the project. Wind People has also had negative experiences with banks where they have not been taken seriously, and the banks did not believe in the project (Vangstrup, 2015a).

Wind People has been in contact with the following Danish banks: Nordea, Handelsbanken, Ringkjøbing Landbobank, Arbejdernes Landsbank, Jyske Bank and Sydbank (Vangstrup, 2015a). They have all felt obliged not to go into the Wind & Welfare project. Wind People has deliberately chosen not to make contact with Danske Bank, since this bank has a tradition of working with DONG (Vangstrup, 2015g).

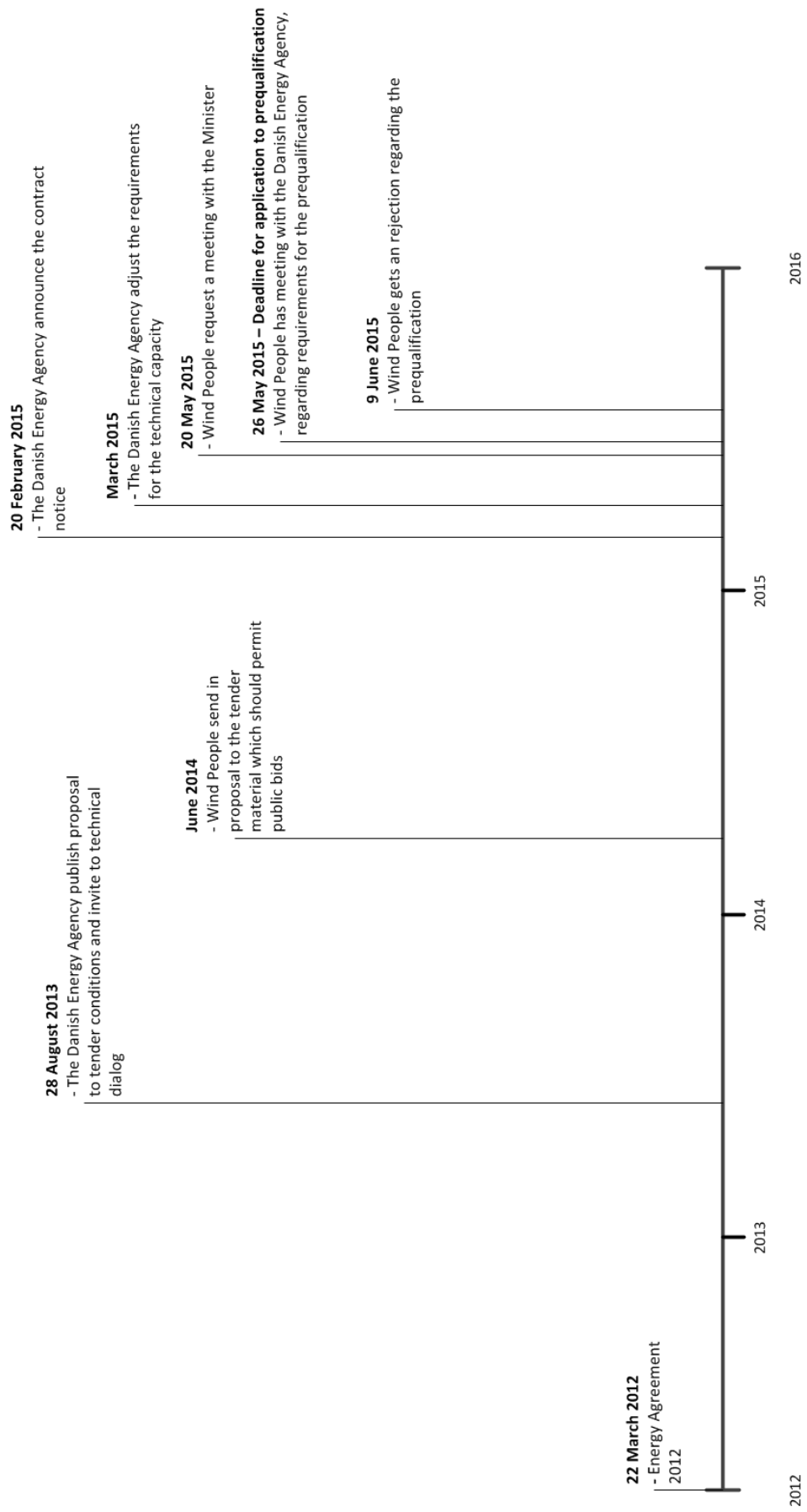
In addition to the Danish banks, Wind People has also contacted a number of foreign banks. Among the foreign banks were: SEB, the HSH Trading bank, BNP Paribas and Societe General. Again, they had different experiences with the banks and in the end, none of the foreign banks would go into and make loans available for the project (Vangstrup, 2015g).

However, Wind People found Green Giraffe, which offers financial advice within the field of renewable energy. Green Giraffe has contacts with banks who are willing to lend money to the limited partnership, as long as the project is budgeted 10% higher and the limited partnership itself has 30% of the funding (Vangstrup, 2015g).

5.2.2 The tender process until the pre-qualification

Concurrently with Wind People's work on organising Wind & Welfare, the bidding process of the wind farms is also running. This section describes, from Wind People's point of view, how the tender process up to the pre-qualification of potential bidders proceeds and the incidents that Wind People goes through during the process. As described in Chapter 1.1, the decision is made with the Energy Agreement of 22 March 2012 to expand the nearshore wind turbines in Denmark towards 2020.

Timeline for the tender process up to the prequalification



5.2.2.1 The Danish Energy Agency's proposal for the tendering conditions and invitation to technical dialogue (August 2013-June 2014)

In August 2013, the Danish Energy Agency publishes "450 MW nearshore wind power – New Danish coastal range", with which they invite interested bidders to participate in a technical dialogue related to the bid. This is described in Chapter 4.

Wind People's reaction to the Danish Energy Agency's preliminary draft of the bidding conditions was the lack of interest from a socio-economic perspective, since the preliminary bidding documentation provides terms which only large energy companies such as DONG and Goldman Sachs as well as foreign multinational energy companies will be able to meet. Or if a minor party would like to bid, they are forced to be part of a consortium with one of these large companies (Vangstrup, 2015a). However, Wind People does not react to the material initially, as the technical dialogue is not officially kicked off until later in the process (Vangstrup, 2015g).

In June 2014, Wind People joins the technical dialogue about the bidding documents, after the Danish Energy Agency officially starts the technical dialogue in March 2014. Here, Wind People informs the Danish Energy Agency that there will be a public tender on the nearshore wind turbines, for which reason the Danish Energy Agency should take this into account in the specifications. At the same time, Wind People forwards a proposal to the Danish Energy Agency on how to take into account a public tender in the tender documents. In this proposal, Wind People points out that several of the award criteria should not apply to popular consortiums, since these cannot show revenue three years back and at the same time cannot refer to a parent company. Furthermore, Wind People emphasizes that popular projects need a period of time, a minimum of six months, between the publication of the tender notice and the submission deadline for pre-qualification, to organise a tender. This is why a deadline of three months is too short (Vangstrup, 2014).

The output of the technical dialogue is specified in Chapter 4.3.1.

5.2.2.2 Tender notice (20 February – May 26, 2015)

On 20 February 2015, the Danish Energy Agency publishes the tender notice for the supply of the nearshore wind turbines in Denmark. The tender notice establishes the requirements that potential bidders must meet in order to be able to obtain the pre-qualification and be invited to bid on nearshore offshore wind farms. The requirements are as described in Chapter 4.3 (Energistyrelsen, 2015i):

- The applicant must present an average turnover of DKK 4 billion over the last three years.
- The applicant must have an equity ratio of 20% or more. For financial institutions, however, they must have a credit rating of BBB- or more (Standard & Poors and Fitch) and/or Baa3 or more (Moody's) or an equivalent rating by another esteemed credit rating agency.
- The applicant must have at least one reference to an offshore project with an installed capacity of a minimum of 30 MW within the last five years.

These are impossible conditions in relation to the public tender that Wind People is trying to organise. According to Wind People, the requirements mean that only a few companies with offshore as core area are able to bid (Vind og Velfærd, 2015a).

5.2.2.3 *Technical Capacity (March 2015)*

On 16 March 2015, Wind People addresses a question concerning the technical capacity to the Danish Energy Agency through their lawyer, Clemens Lawyers a/s. The question concerns the requirement for the technical capacity of the project owner – should the project owner itself possess the technical capacity or may this be purchased? Possibly through the consultants assigned to the project (Clemens Advokater A/S, 2015).

After the request from Wind People, the Danish Energy Agency corrects the tender to make it clear that the technical capacity can be purchased into the project through e.g. consultants. Consequently, the consortium does not need to have a party with experience in the design and development of 30 MW offshore wind turbines, which means that more Danish projects are given the opportunity to bid (Vind og Velfærd, 2015a).

5.2.2.4 *Attempt to modify financial requirements*

Towards the deadline for the application to the pre-qualification, Wind People tries to enter into a dialogue with the Danish Energy Agency and politicians about a change of the financial requirements in such a way that also, i.a., popular projects may be pre-qualified.

On 20 May, Wind People tries to get an urgent conversation with the Minister of Climate, Energy and Construction, Rasmus Helveg Pedersen. Lea Vangstrup succeeds in having a conversation with the Head of Unit, Kasper Wrang, who promises to present the issue concerning the exclusion of public tenders to the Minister immediately. He also promises that Wind People will get a feedback on 22 May 2015 at the latest. However, Wind People does not receive the promised feedback from the Ministry (Vangstrup, 2015d).

5.2.2.5 *Meeting with the Danish Energy Agency (May 26, 2015)*

On the morning of the same day as the afternoon sees the deadline for the application to the pre-qualification, Wind People has a meeting with the Danish Energy Agency to try to get the deadline postponed and the requirements for applicants changed (Vangstrup, 2015f).

At the meeting on 26 May 2015, Wind People presents two alternative solutions as the Danish Energy Agency believes the solutions previously proposed by Wind People cannot live up to the principle of equality and therefore will not be applicable (Vangstrup, 2015f). The two alternative solutions are (translated from Danish):

"1) (i) The applicant represents a turnover of DKK 4 billion or (ii) provides an appropriate equity and equity to debt-ratio of maximum 20% to be made no earlier than four months after the publication of the pre-qualification requirements.

2) The pre-qualification takes place in two phases. Firstly, a technical pre-qualification. Four months later, a financial pre-qualification follows, where an appropriate equity and an equity to debt-ratio of maximum 20% must be present."

According to Wind People, the Head of Unit of the Danish Energy Agency believes that the second alternative solution could be interesting, and that this model might be used in future tenders. The Head of Unit

makes it clear, however, that it will not be used in connection with the tender for nearshore wind turbines, as the proposal comes too late (Vangstrup, 2015f). Wind People does not agree with the Danish Energy Agency on this conclusion and they emphasise in a letter to the Danish Energy Agency on 27 May 2015 (the day after the application deadline) that they believe the current tender must be changed, even if that may prolong the process. This is substantiated by the fact that since 31 July 2014 Wind People has drawn attention to the fact that the tender does not allow popular bids (Vangstrup, 2015f).

5.2.2.6 Decision of the pre-qualification (9 June 2015)

By the deadline for the pre-qualification on 26 May 2015, Wind People did not succeed in obtaining pre-qualification, which means that they are not allowed to make bids on the 350 MW offshore wind turbines (Energistyrelsen, 2015a). In a letter to Wind People on 8 June 2015, Wind & Welfare K/S receives a refusal of the pre-qualification from the Danish Energy Agency. The arguments in the letter are as follows:

"In order to be considered for pre-qualification the applicant must inter alia meet the following minimum requirements regarding section III. 1.2):

The applicant must have a yearly overall turnover of minimum 4 billion DKK (calculated as an average of the last 3 financial years available). If the overall turnover is stated in another currency than DKK, the Danish Energy Agency will convert the amount stated to DKK in accordance with the exchange rate on the website of the Danish National Bank, www.nationalbanken.dk at the time of deadline for request for pre-qualification.

The not yet established Wind & Welfare K/S relies on the economic and financial ability of Fonden Ærøvs Vedvarende Energipulje, which has signed a declaration of support using form No 3 of the PQQ. The average yearly turnover of the foundation does however not meet the above mentioned minimum requirement for yearly overall turnover.

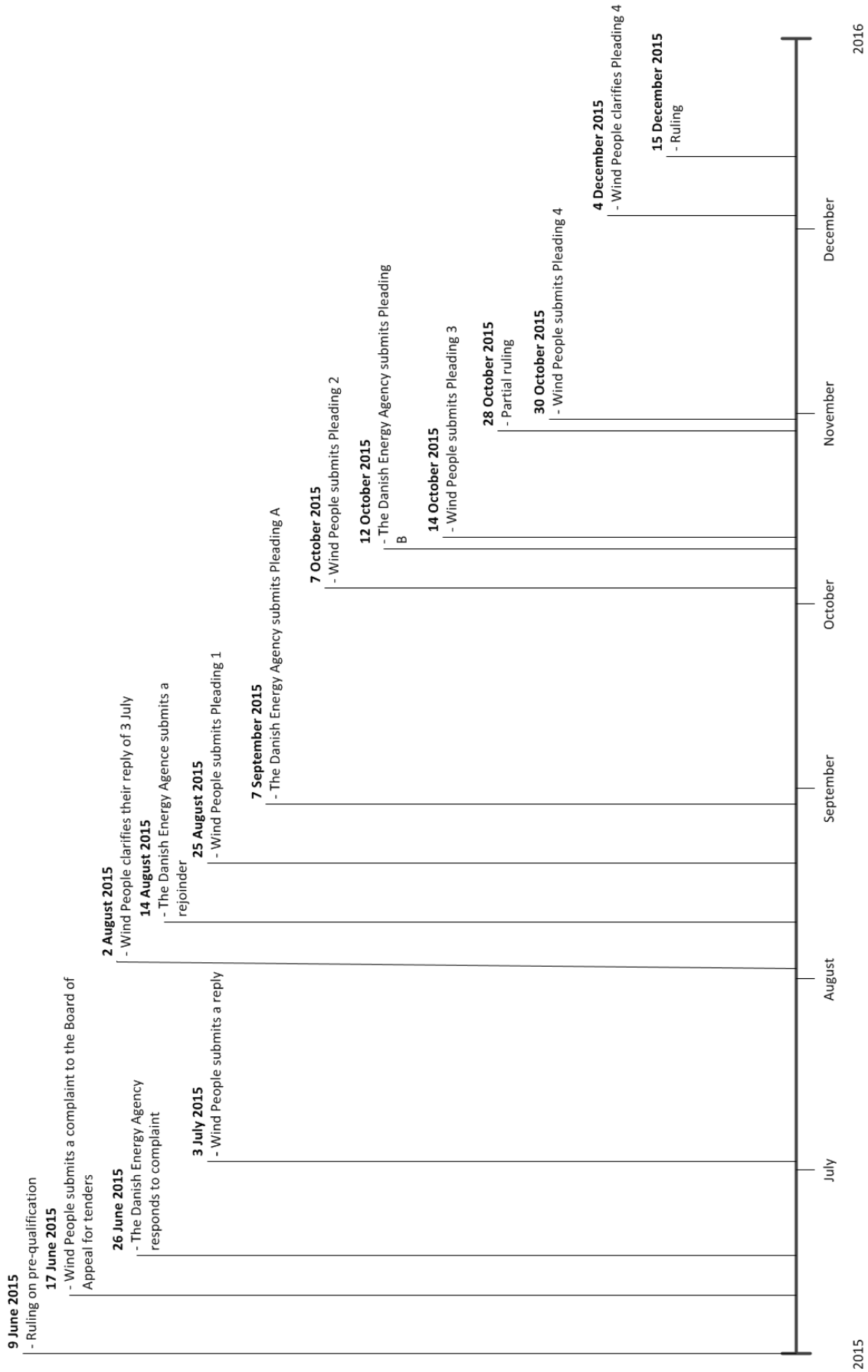
The application for pre-qualification submitted by the not yet established Wind & Welfare K/S has therefore been found to be non-compliant." (Energistyrelsen, 2015a)

Wind & Welfare K/S was opted out in the pre-qualification, as they could not present an average turnover of DKK 4 billion over the last three years.

5.2.3 Wind people's complaint case against the Danish Energy Agency

After the Wind & Welfare project does not achieve the pre-qualification concerning the supply of nearshore wind turbines, Wind People chooses to complain to the Board of Appeal, since they believe that the tender is not legal. This subsection describes the complaint case from Wind People's point of view. Therefore, the case is described on the basis of the incidents that Wind People has experienced throughout this case.

Timeline for Wind People's complaint against the Danish Energy Agency



5.2.3.1 The complaint against the Danish Energy Agency (17 June 2015)

On 17 June, Wind People chooses to pay a fee of DKK 20,000 and files a complaint to the Board of Appeal about the lack of pre-qualification of Wind & Welfare K/S (Vind og Velfærd, 2015a). During the complaint case, Wind People is no longer represented by the lawyers Clemens Advokaterne A/S. Instead, they receive legal advice from a friend of Bjørn Holmgaard who is working on the complaint case without a fee, which is a crucial factor in order for them to have the capacity to pursue the complaint case.

In the actual complaint, Wind People presents six claims arguing that the Danish Energy Agency's tender for the nearshore wind turbines is not legal. Consequently, they require their bid to be legalised, and the lack of pre-qualification of Wind & Welfare K/S to be cancelled (Vangstrup, 2015e).

Bjørn Holmgaard explains that the claims are organised with the intention to give the Board of Appeal the opportunity to revise the tender without rejecting the Danish procurement model in its entirety. Claims 1, 3 and partly 4 have the primary task to give the Board of Appeal a loophole in such a way that they avoid reversing the entire model. Claim 2 is organised in such a way that it firstly calls for the Attorney General to undertake that it actually concerns a concession tender, as it appears offhand. The reason is that Wind People believes there is a critical error in the construction of the tender in the sense that not enough risk is transferred to the winning bidder (Holmgaard, 2015d).

First claim

The first claim from Wind People concerns that the Board of Appeal must state that the tender notice does not meet the requirement of transparency. This is because Wind People thinks that the headline of the tender notice is unclear for potential bidders, but also that the tender notice is unclear about which procedure rules apply to the tender, which is in conflict with the principle of transparency (Vangstrup, 2015e).

Second claim

The second claim is that the Board of Appeal is to conclude that the procedure rules in Directive 2004/18/EC are not followed in the tender notice. This is because Wind People believes that it is unclear whether it concerns a concession contract related to construction or not, which will have an impact on the applied rules of procedure (Vangstrup, 2015e).

Third claim

The third claim is that the Board of Appeal is to conclude that the Danish Energy Agency has violated the principle of objectivity by applying the revenue requirement. Wind People does not believe that the revenue requirement applied by the Danish Energy Agency is factual. This is partly because it does not relate to the operation or set-up of wind turbines, as this is listed as a general revenue requirement. This means that only companies with a turnover of a minimum of DKK 4 billion within any industry may be pre-qualified (Vangstrup, 2015e).

Fourth claim

The fourth claim is that the Board of Appeal is to conclude that the tender does not meet the proportionality principle in the context of the revenue requirement. This is because Wind People believes that a revenue requirement of DKK 4 billion is not commensurate with the size of the contract (Vangstrup, 2015e).

Fifth claim

Wind people's fifth claim is that the Board of Appeal shall instruct the Danish Energy Agency to make the tender legal in relation to the above claims. The sixth and last claim is that the Board of Appeal must cancel the Danish Energy Agency's decision in relation to the fact that Wind & Welfare K/S is not pre-qualified, since the tender notice does not live up to EU procurement rules (Vangstrup, 2015e).

5.2.3.2 The response to the complaint from the Danish Energy Agency (26 June 2015)

In the response to Wind People's complaint, the Attorney General makes it clear, on behalf of the Danish Energy Agency, that the Danish Energy Agency believes that they have not violated the EU procurement rules within this area. Therefore, they maintain that there is no basis for cancelling the decision not to pre-qualify Wind & Welfare K/S (Kammeradvokaten, 2015d).

In relation to Wind People's first claim, the Attorney General concludes that the Danish Energy Agency regarding the tender notice is in compliance with the public procurement legal rules for a contract like this, and that the tender notice does not raise any doubts about which procedural rules are applied to the tender. At the same time, the Attorney General maintains that the tender notice complies with the principle of transparency (Kammeradvokaten, 2015d).

With their second complaint, Wind People questions what type of contract is meant in relation to the tender. The Attorney General then makes it clear that this is a concession contract, and that this appears from the tender specifications (Kammeradvokaten, 2015d).

In relation to Wind People's third and fourth claims regarding the determination of the revenue requirements and the proportionality thereof, the Attorney General maintains that the prescribed requirements for the technical and economic appropriateness are relevant, proportionate and pragmatic. The Attorney General also states that the Danish Energy Agency has acted within the limits of the area (Kammeradvokaten, 2015d).

On behalf of the Danish Energy Agency, the Attorney General thus disputes all points in Wind People's submitted complaint to the Board of Appeal for tenders.

5.2.3.3 Reply, rejoinder, pleadings (3 July 2015 – 28 October, 2015)

In response to the Attorney General's defence to the complaint, Wind People submits a reply on 3 July 2015 containing clarifications of their claims and procedural appeals, on the basis of the Danish Energy Agency's response to the complaint.

Wind People's reply

In its reply, Wind People argues, among other things, why a concession contract in connection with the supply of the nearshore wind turbines, e.g. due to lack of operational risk for the winner of the tender, cannot be seen as legal. In its reply, Wind People argues that the Danish Energy Agency must submit a calculation that renders probable that the required risk will be transferred (Vangstrup, 2015i).

Before the Attorney General submits a rejoinder as a response to Wind People's reply, Wind People forwards a clarification on 2 August 2015 of their reply of 3 July 2015. The main element of the clarification is that Wind People believes that the Danish Energy Agency must certify that they made calculations even before the tender concession contract, proving that sufficient risk will be transferred to the winner of the

tender, and that only on such a basis is it lawful to establish the tender as a concession (Holmgaard, 2015l)(Holmgaard, 2015d).

The Danish Energy Agency's rejoinder

On behalf of the Danish Energy Agency, the Attorney General submits their rejoinder on 14 August 2015. They argue against Wind People's claims in the complaint and the subsequent reply. In the rejoinder, the Attorney General gives a procedural call for the case to be brought up for hearing in accordance with the "law enforcement" section 11 (Kammeradvokaten, 2015a). In addition, the Attorney General argues that, due to the complexity of the concession, it is not possible to estimate the transfer of risk in advance. At the same time, he emphasises that the EU Commission has already approved a similar contract model for the "Horns Rev 3" according to the state aid judicial rules (Kammeradvokaten, 2015a). Finally, the Attorney argues:

"In connection with the choice of procurement model, the respondent has carried out an assessment of the market and the importance of the price premium. However, there are no detailed calculations of this, given that the assessment of whether the concerned concession contract is made on the basis of a more comprehensive assessment of the nature of the risks carried by concessionaire, in conjunction with the defendant's knowledge of the required rate of return in the market." (Kammeradvokaten, 2015a, s.8) (Translated from Danish)

According to the Attorney General, no actual calculations have been made of how much risk is being transferred. Only an overall assessment of this has been made.

Subsequently, the two parties submit pleadings wherein they argue against each other's arguments in the case. In total, Wind People has forwarded three pleadings, 1, 2 and 3, while the Attorney General has sent two pleadings in the case, (A) and (B), prior to the Board of Appeal's decision on the case.

Wind People's pleading 1

In pleading 1, Wind People emphasises, among other things, that a plain ban on negotiated tenders exists, in accordance with the guidelines on state aid for environmental protection and energy (Holmgaard, 2015e). Wind People therefore thinks that if the Board of Appeal for tenders has ascribed meaning to the Commission's approval of "Horns Rev 3", they also have to ascribe meaning to this ban. The ban on negotiation is then by Wind People regarded as an equally strong argument against the legality of the tender, as the lack of concession transfer of operational risk. This is the case, even though Wind People considers it likely that the Board of Appeal will not relate to the question, as it is not within the competence of the Board of Appeal, which alone concerns violation of procurement rules. The question, however, may be appealed to the EU Commission subsequently (Holmgaard, 2015d).

The Danish Energy Agency's pleading A

In pleading A, the Attorney General argues further for the contract as a concession contract, and for the tender with negotiation not being illegal. This is because the EU Commission previously acknowledged state aid in connection with tenders of the same negotiation process in relation to Horns Rev 3 (Kammeradvokaten, 2015b)

Wind People's pleading 2

The access to documents of the case with the Danish Energy Agency entails that Wind People submits pleading 2, in which they present that the Danish Energy Agency's advisor Deloitte has made calculations for the Danish Energy Agency showing that the payback time is not affected by the operational risk. The reason is that the high tariffs paid out during the first approximately 12 years of the tender period will pay the investment, operating costs, as well as generate a significant surplus before the tariff expires. These results match the calculations that Professor Frede Hvelplund from Aalborg University has drawn up for Wind People. Wind People presented this earlier during the case. Therefore, Wind People points out in pleading 2 that the Attorney General earlier in pleading A told that the Danish Energy Agency is not obligated in relation to such calculations, and that they cannot be carried out because the Danish Energy Agency does not deal with the erection or operation of wind turbines themselves (Holmgaard, 2015j).

The Danish Energy Agency's pleading B

In the process of writing (B), the Attorney General argues further about Wind People's claims and arguments. The Attorney General also responds to Wind People's presentation of Deloitte's calculations. He states that these have not been used as the basis for the assessment of the operational risk and, consequently, nor for the choice of contract type. This is e.g. justified by the fact that Deloitte's calculations were not available until more than a year after the decision of the concession contract model (Kammeradvokaten, 2015c).

Wind People's pleading 3

Once again, Wind People points out in pleading 3 the Danish Energy Agency's lack of reasoning for the use of "Tender with negotiation". Further, Wind People also points out the lack of explanation as to what significant transferred operational risk is associated with the project, as the Danish Energy Agency provides this as concession contracts (Holmgaard, 2015k).

5.2.3.4 Partial ruling on 28 October 2015

The Board of Appeal was planned to make a partial ruling of the case in week 43, 2015. The Attorney General had the partial ruling postponed a week, for which reason this was made on 28 October 2015 instead.

In the partial ruling, the Board of Appeal states their view on Wind People's request to present three questions to the European Court of Justice. The three questions concern (Klagenævnet for Udbud, 2015a):

- The accuracy in the application of "Tender with negotiation" related to a concession contract.
- What the consequences are if a state has applied the "Tender with negotiation" in connection with procurement of wind farms, which falls under the "Guidelines on state aid for environmental protection and energy".
- Whether the EU Commission's approval is contrary to article 80 in the "Guidelines on state aid for environmental protection and energy" in connection with the Danish tender for the wind farm at Horns Rev 3.

In relation to whether the questions should be submitted to the European Court of Justice, the Board of Appeal's decision is that the Board of Appeal for tenders does not follow the request to submit questions to the European Court of Justice. Among other things, this is based on the fact that the Commission's approval in relation to the "Guidelines on state aid for environmental protection and energy" at the tender of

Horns Rev 3 has to do with state aid on energy and environmental protection and not the EU tender judicial rules. Therefore, the approval has nothing to do with the case between Wind People and the Danish Energy Agency, and therefore there is no reason to present the issue to the European Court of Justice (Klagenævnet for Udbud, 2015a).

5.2.3.5 Pleading 4

The last pleading prior to the Board of Appeal's decision in the case is Wind People's pleading 4 and the clarification thereof, which were submitted on 30 October and 4 November 2015, respectively. In the pleading and the clarification, Wind People once again emphasises that the tender process is illegal pursuant to article 80 in the guidelines on state aid for environmental protection and energy, as it is framed as the "Tender with negotiation". Instead, the Danish Energy Agency should have used "restricted tender" or "public tender" (Holmgaard, 2015f).

In addition, Wind People points out that the Board of Appeal is committed to ensure that the tender is not against EU basic judicial principles, which they believe it is (Holmgaard, 2015g).

5.2.3.6 The Board of Appeal's ruling

After several postponements, the Board of Appeal submits their ruling in the complaint case on Tuesday 15 December 2015.

None of Wind People's claims in the complaint case is upheld, which results in the following ruling:

"The appeal is not sustained.

On behalf of Wind & Welfare K/S as well as the fund called Fonden Ærøs Vedvarende Energipulje, Wind People pays within 14 days 40,000 USD in legal costs to the Danish Energy Agency."
(Klagenævnet for Udbud, 2015b, s. 55) (Translated from Danish).

The Board of Appeal does not believe that the Danish Energy Agency has applied an improper tender process, since they have chosen to use a concession tender. As the Danish Energy Agency may decide to apply this tender form based on an objective assessment, the Board of Appeal does not believe that it can be determined at the present time, whether the basis for the Danish Energy Agency's estimate was sufficient, since the tender process has not yet been completed (Klagenævnet for Udbud, 2015b).

"The Board of Appeal notes, however, that this is a very large and complicated ongoing tender in which an offer and an evaluation thereof have not yet been made. This is why the content and size of "settlement price" is not known, and it cannot at present be determined whether the Danish Energy Agency or Deloitte/Wind People's premise with regard to tenderers' expected behaviour is correct. Therefore, it cannot with certainty be estimated to which extent the awarding tenderer will take over the risks from the contracting entity regarding the conclusion of the contract.

On this basis and after an overall assessment of the information available, the Board of Appeal does not at the present time find reasons to override the Danish Energy Agency's estimate which gave the basis for organising the procedure as a concession tender. At this stage while the tender is still ongoing, the Board of Appeal did not find reason to override the estimate on the grounds that it is outside the limits applicable to such an estimate.” (Klagenævnet for Udbud, 2015b, s. 52-53) (Translated from Danish).

Based on the argument of not being able to decide at present whether operational risk is transferred to the winner of the tender, the Board of Appeal does not sustain Wind People's claim about this (Klagenævnet for Udbud, 2015b).

Wind People's further claims are not sustained either, resulting in the complaint in its entirety not being sustained. Thus, the Board of Appeal now perceives the case as concluded from their point of view (Klagenævnet for Udbud, 2015b).

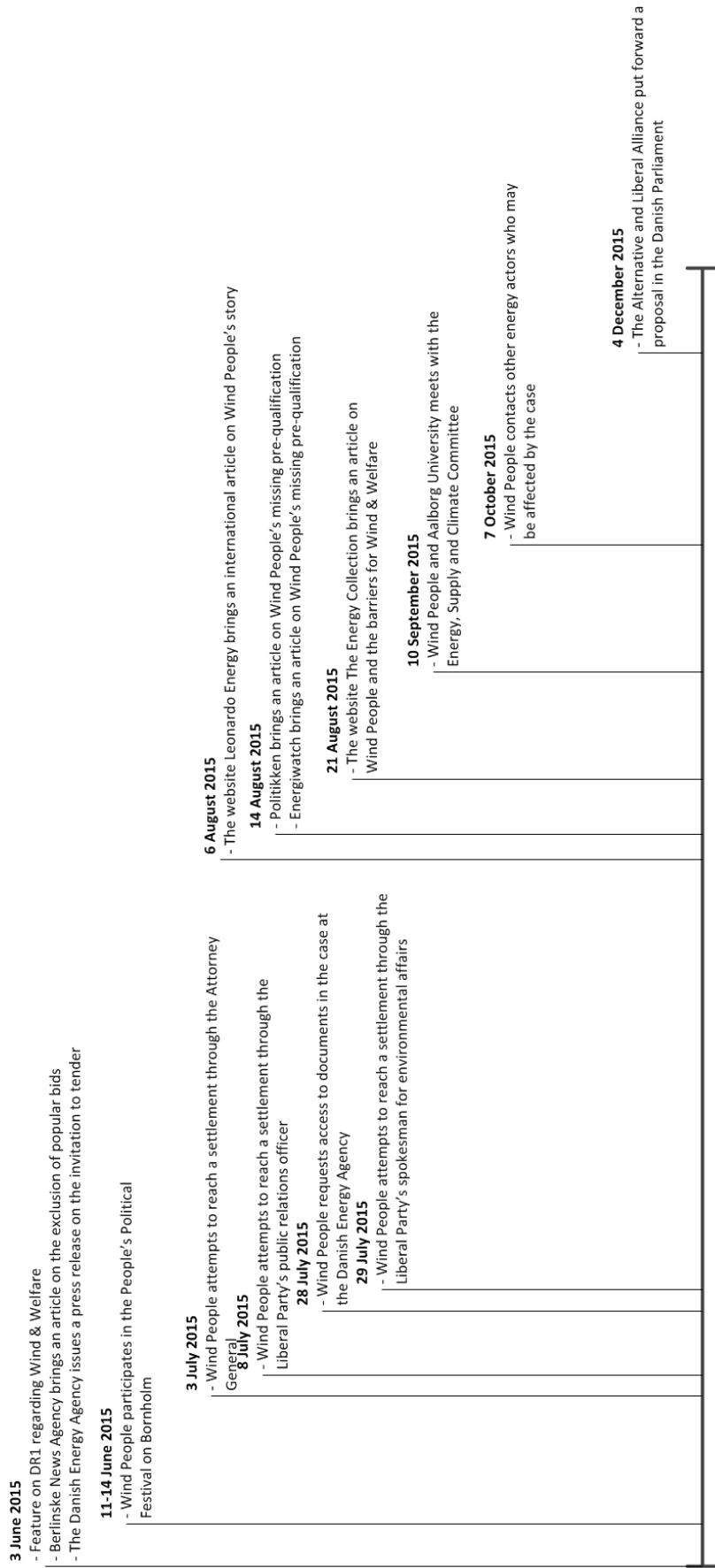
Hence, Wind People did not manage to win the case and with this a renewal of the tender. However, the ruling leaves a door open for Wind People, since the Board of Appeal for tenders, as described, cannot take a stand on whether the tender is illegal in relation to concession rules, before a winner has been found and thus a win rate in the tender.

Wind People also states to the e-paper EnergiWatch that they do not see the decision as a lost case. As they see it, it will be quite difficult legally to carry out the tender if the judgement conditions must be followed. Either the win rate will be illegally high or the tenderers will only achieve a too low return. They will therefore not be able to find investors to finance the park (Johansen, 2015a)(Holmgaard, 2015d). If it turns out that the winner of the tender does not achieve transferred operational risk, this could be appealed in a new complaint case.

5.2.4 Wind People's attempt to achieve a settlement without going through the complaint case

This subsection describes how Wind People has tried to influence the matter in such a way that a settlement could be reached without going through the complaint case. This applies to both Wind People's use of the media as well as their attempt to influence the politicians directly in order to put the issue on the political agenda.

Timeline for Wind People's attempt to reach a settlement without going through the complaint



2015

2016

5.2.4.1 The press/the media

The press and the media have played a role numerous times throughout the process. However, mostly articles based on Wind People's side of the story have been brought during the process.

Prior to the submission of a complaint to the Board of Appeal

Prior to Wind People's submission of a complaint to the Board of Appeal, the case is mentioned in the media. On 2 June, Berlingske Nyhedsbureau (News Agency) writes about Wind People and the Ærø Fonden's plans to complain about the Ministry of Energy, Utilities and Climate's pre-qualification. To be precise, they think that the supply is a distorting factor for who can bid in relation to the tender (Berlingske Nyhedsbureau, 2015b).

On 3 June 2015, the Danish broadcasting channel DR1 brings a feature about the problems of the Wind & Welfare issue. Here, it appears that Wind People expects to complain to the Board of Appeal about the Danish Energy Agency's tender for nearshore wind turbines (Vind og Velfærd, 2015a), (Vangstrup, 2015h).

On 3 June, Berlingske Nyhedsbureau publishes an article in which the Red-Green Alliance's (Enhedslisten) spokesman for environmental affairs, Per Clausen, supports Wind People's case related to the Wind & Welfare project. Per Clausen finds it unacceptable that only large multinational energy companies may bid in connection with the tender (Berlingske Nyhedsbureau, 2015a). This article is prior to the submission of Wind People's complaint to the Board of Appeal. However, it is clear from the article that they intend to submit the complaint (Berlingske Nyhedsbureau, 2015a). The article is published by several Danish web-based news sites.

In response to Wind People's appearance in the media, the Danish Energy Agency issues a press release on 3 June 2015. Here the Danish Energy Agency refers to the fact that the tender is completed within the law, and that the financial demands put forward in connection with the pre-qualification are normal within such tenders (Energistyrelsen, 2015f).

On 17 June 2015, Politiken brings an article which questions, among other things, the revenue requirements of DKK 4 billion and the exclusion of popular projects (Nielsen, 2015).

After filing a complaint to the Board of Appeal

On 6 August 2015, approximately two weeks after Wind People has filed the complaint to the Board of Appeal, the website Leonardo Energy brings an article about Wind People's attempt to make bids through a crowdfunding model and the barriers set up by the Danish Energy Agency (Kernan, 2015a).

On 14 August 2015, Politiken and Energywatch bring both articles about Wind People's lack of pre-qualification as well as complaint about this. Politiken brings two articles in their online paper. One of the articles is concurrently brought in their printed newspaper along with an additional printed article (Andersen, 2015b), (Andersen, 2015a), (Andersen, 2015c), (Johansen, 2015b). It appears from Politiken's article that several experts in the field of public procurement law do not dare to guess the outcome of the case, since it is a complex matter that may go both ways (Andersen, 2015c).

On 21 August, a post similar to the article brought on 6 August 2015 at Leonardo Energy is brought on the website The Energy Collective, which is a forum for Climate and Energy (Kernan, 20.15b).

5.2.4.2 The People's Political Festival on Bornholm (11-14 June 2015)

The People's Political Festival on Bornholm in 2015 coincided with the Danish election and thus took place during the election campaign. After Wind People was not pre-qualified for the tender for nearshore wind turbines, they want the tender to be overturned without a trial. In order to be successful, Wind People needs the case to be on the political agenda, and the People's Political Festival was a good place to meet with the politicians. The involvement of the politicians during the election campaign made it possible for Wind People to get politicians to take the issue into intergovernmental negotiations. This gave the opportunity to renew the tender (Holmgaard, 2015i).

The purpose of participating at the People's Political Festival was to meet as many politicians as possible and report on the problems in relation to both tender and process. As time is limited, Bjørn Hackett (Wind People) decides to make an approach to the political parties with the best chance of success. This turns out to be The Red-Green Alliance (Enhedslisten) and The Alternative (Alternativet) (Holmgaard, 2015i).

The Red-Green Alliance informs Bjørn Holmgaard that there is little chance of politicians going into the matter at that time, as the lawsuit between Wind People and the Danish Energy Agency is already ongoing. Therefore politicians want to wait and see what the outcome of the trial will be. This statement is discouraging to Bjørn Holmgaard and Wind People as this shows that they should have been in contact with politicians long before. It also showed that they should probably have addressed politicians directly instead of going to the Danish Energy Agency and into the complaint case (Holmgaard, 2015i). The dialogue with the politicians should probably have been started as early as when the Danish Energy Agency initially sent out information on what the tender documents would look like. This was approximately one year before it actually happened (Holmgaard, 2015i).

At the People's Political Festival, however, Bjørn Holmgaard had a very positive dialogue with the political party The Alternative. Bjørn Holmgaard managed to present to The Alternative the problems of the tender and the exclusion of grass-roots projects in the tender. They are willing to take this into intergovernmental negotiations, if they win the election (Holmgaard, 2015i). However, this was not the outcome of the elections, and therefore the issues were not put directly on the agenda of the intergovernmental negotiations.

After the elections, however, Wind People has had an ongoing and positive dialogue with The Alternative. They are interested in working for making public tenders possible in connection with tenders in the future (Holmgaard, 2015i).

I.a. after the announcement from politicians at The People's Political Festival, Wind People has tried to influence policymakers for the process after the appeal against the Danish Energy Agency, rather than attempting to reverse the tender outside the case. This is to ensure that it will be possible, in any case, for grass-roots bidders to bid on such projects in the future (Holmgaard, 2015i).

5.2.4.3 Attempts of conciliation through the Attorney General (3 July 2015)

After the appeal against the Danish Energy Agency has been submitted, Wind People tries to achieve reconciliation in the case through the Danish Energy Agency's lawyer, the Attorney General. The purpose is to

get the pre-qualification reversed with changes to the financial requirements for potential bidders (Hartlev & Holmgaard, 2015).

The Danish Energy Agency, however, refuses to engage in dialogue about the achievement of reconciliation (Holmgaard, 2015d).

5.2.4.4 Attempt of conciliation through The Liberal Party's (Venstre) public relations officer (8 July 2015)

As Wind People does not succeed in having a direct dialogue with the Danish Energy Agency about a settlement of the complaint case, they try to address the politicians instead.

On 8 July, Bjørn Holmgaard writes to the Liberal Party's public relations officer, Niels Th. Dahl. He calls on The Liberal Party and the Minister of Energy, Supply and Climate change, Lars Christian Lilleholt, to contact the Attorney General to learn about the case and the potential consequences of this (Holmgaard, 2015c).

5.2.4.5 Public access to documents (28 July – 29 September, 2015)

In connection with the case, Wind People has requested access to the Danish Energy Agency's documents relating to the tender for nearshore wind turbines. On 28 July and 27 August 2015, the Danish Energy Agency has decided that Wind People could only get partial access to the documents relating to the tender.

Wind People appealed against these decisions to the Board of Appeal with the result that Wind People was granted further access to the documents on 11 and 29 September 2015, respectively. (Klagenævnet for Udbud, 2015a).

The access to documents has i.a. been important in relation to Wind People's appeal against the Danish Energy Agency. Through their public access, Wind People has been given some of the inside information that the Danish Energy Agency had during the preparation of the tender documents. This concerns e.g. calculations from the Danish Energy Agency's advisor, Deloitte, who had created the risk calculations for transferred risk to the winner of the tender in connection with a business case. In the following quote from pleading B from the Attorney General, it appears that Deloitte's calculations have not been applied in connection with the tender.

"The decision to provide the contract as a concession contract and the evaluation thereof had thus already been made in 2013.

The Deloitte report was not available until more than one year after the defendant's own assessment of the fact that it was about a concession contract, given that the Deloitte business case was delivered to the respondent in October 2014, see annex 20. Therefore, the report was not included in this decision." (Kammeradvokaten, 2015c, s. 4) (Translated from Danish).

Further, it appears from the Deloitte analysis that at least six to ten bidders are required in order to create the necessary competition related to the tender (Deloitte, 2013). An advice that the Danish Energy Agency chose not to follow, as they only let three pre-qualify in the tender.

5.2.4.6 Attempt of conciliation through The Liberal Party's public relations officer (29 July 2015)

On 29 July, Wind People furthermore tries to influence the case in order to achieve conciliation. Wind People writes a letter to The Liberal Party's spokesman for energy affairs, in which they once again try to get the Minister to contact the Attorney General. Wind People points out that the Danish Energy Agency and the Minister may not yet see the seriousness of the matter. Therefore, Wind People urges The Liberal Party and the Minister to study the case and deal with the possible consequences which such a potential "Social-Liberal" energy scandal could trigger for The Liberal Party and the Minister (Holmgaard, 2015b).

5.2.4.7 A meeting with the Energy, Supply and Climate Committee (10 September 2015)

On 10 September, Wind People, represented by Lea Vangstrup and Bjørn Holmgaard, and Professor Frede Hvelplund from Aalborg University and co-author of this report met with the Energy, Supply and Climate Committee (Wind People, 2015c).

At the meeting, Wind People gives the committee an introduction to the Wind & Welfare project. They highlight, i.a., that with the sale of shares in the project, they would be able to deposit approximately DKK 2 billion on an account, and that they already have a financing agreement with a bank. It is therefore only the Danish Energy Agency's revenue requirement that prevents the pre-qualification of the Wind & Welfare project (Wind People, 2015c).

Furthermore, Frede Hvelplund presents the significance of various grass-roots projects to society. He points out that the exclusion of the popular bids in connection with the tender will result in a welfare loss of DKK 750 million - 1.5 billion.

Bjørn Holmgaard also informs how the revenue requirement is a barrier to grass-roots projects. Furthermore, he adds that the revenue requirement is not in itself a guarantee of financial solidity, which is supported by several within the industry also agreeing to this (Wind People, 2015c).

At the end of the meeting, Wind People recommended the Committee to contact the Attorney General in connection with the complaint case. They also drew the attention to issues that should be addressed in future tenders. These issues are (Wind People, 2015c):

- To establish alternatives to the revenue requirement for the measurement of tenderer's solidity.
- To ensure that deadlines are not too tight between the tender publication and closing dates for pre-qualification.
- To establish a council which can help The Danish Energy Agency with the preparation of future wind turbine tenders.

5.2.4.8 Informing affected energy actors about the case and the potential consequences thereof (October 7, 2015)

Wind People is aware that the case against the Danish Energy Agency may affect previous tenders. Therefore, they choose to forward a letter to the affected parties, drawing attention to the matter and the consequences it could have for the winners of previous tenders, if Wind People wins the case and the tender model is found to be illegal. Wind People sends out letters to the following parties: The Danish Energy Association, HOFOR, European Energy, Vattenfall, DONG and EON (Holmgaard, 2015h).

In the letters, Wind People points out that the case is in progress at the Board of Appeal for tenders, and that the ruling of the case might have an impact on some companies, as they have previously won bids on nearshore wind turbines out for tender through the same procedure as the tender for 350 MW nearshore wind turbines (Holmgaard, 2015a).

If Wind People wins the case and the tender process is found in violation of EU law, it might result in the repayment of the financial gains of the received state aid with an interest rate of 8% per year as from the year the subsidy started (Holmgaard, 2015a).

5.2.4.9 The Alternative and The Liberal Alliance put forward proposals to the parliamentary resolution (December 4, 2015)

Wind People continues to address politicians and succeeds in having The Alternative and The Liberal Alliance put forward a proposal on 4 December 2015 to the national parliament of Denmark concerning "strengthening of the competition and financial bid bond at governmental tenders for nearshore wind turbines" (Alternativet & Liberal Alliance, 2015).

The resolution aims to ensure the strongest possible competition in relation to governmental tenders of nearshore wind turbines. To ensure this, five items have been stated in the proposal. If the resolution is adopted, these must be taken into account at future tenders of nearshore wind turbines:

"a) that all bidders with adequate financial resources to ensure the construction of the wind farm project in question will be given the opportunity to participate in the tender process,

b) that the requirements for proved solidity follow general financing practice, which includes a number of factors such as cash share of assets, cash flow and project-specific debt to equity ratio,

c) that the requirements beforehand do not exclude certain organisations such as grass-roots, local cooperatives or the like.

d) that all Danish wind turbine tenders should have at least five pre-qualified bidders, so competition is guaranteed and that the consumer price thus will be the lowest possible, and

e) that the development of the pre-qualification criteria in the future happens in close dialogue with relevant skilled actors in the financing and development of nearshore wind farms, so the interest of the broadest possible competition is handled on equal terms with factual regard to financial solidity." (Alternativet & Liberal Alliance, 2015)
(Translated from Danish).

6 Actors' network around Wind People

The purpose of this chapter is to identify the actor's network around Wind People and their work in organising a public tender related to the tender for nearshore wind turbines. The analysis describes how and why the individual actors and actor groups are involved in the process. The analysis takes its starting point in describing the actors from Wind People's experiences with these through different incidents during the process. Thus the chapter answers the question:

Which actors are involved in such a process, and how do they act in relation to Wind People and their Wind & Welfare project?

In the review of Wind people's process with Wind & Welfare, a number of actors are identified. Wind People are in contact with these actors in connection with the organisation of the Wind & Welfare project, as well as the subsequent process related to Wind People's appeal against the Danish Energy Agency Figure 6 shows the actors and actor groups, Wind People is in contact with during the process.

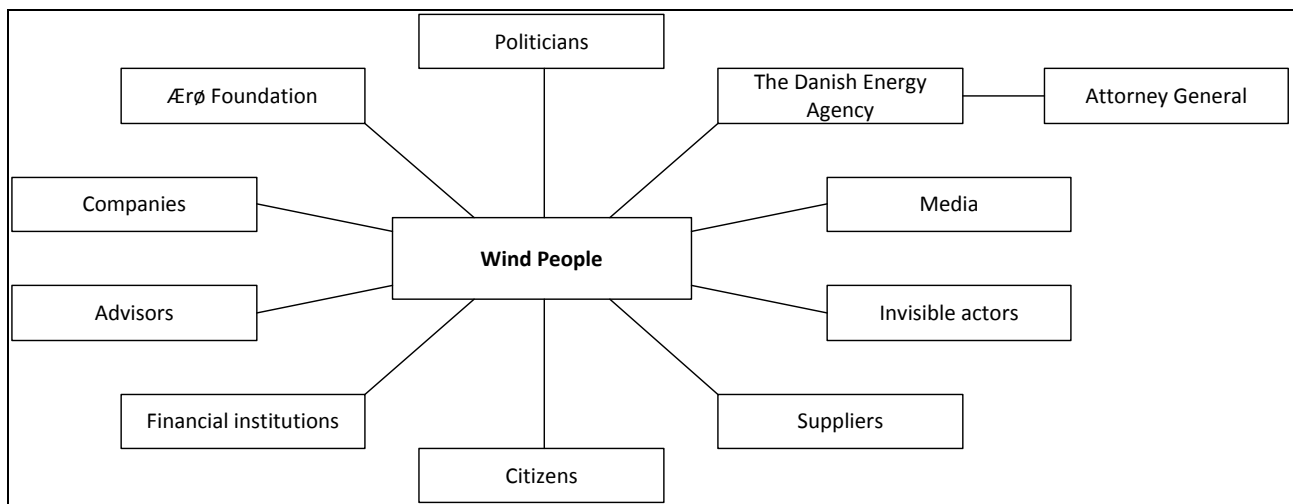


Figure 6: Identified actors, who Wind People is in contact with during the process of Wind & Welfare. (Own illustration).

The actors involved in Wind People's process throughout its duration. Some of the actors are involved in the process several times, and their influence on Wind people's activities varies depending on when and why they are involved.

In the actual drafting of the framework of the tender, the following actors are involved:

- The Danish Energy Agency
- Politicians
- Lobbyists
- Competitors (potential bidders)

The lobbyists and the competitors are in the actor analysis described as one actor group, invisible actors, since these do not appear in direct contact with Wind People, but they still have a certain influence on their process.

In the phase where Wind People works with the organising of the tender in the form of Wind & Welfare, the following actors and stakeholder groups are involved.

- The Danish Energy Agency (framework requirements)
- Ærø Fonden
- Financial institutions
- Advisors
- Enterprises
- Suppliers
- Citizens
- Competitors (invisible actors)

In the final stage, where Wind People initiates a complaint against the Danish Energy Agency and at the same time, through the media and political involvement, tries to achieve a settlement without appealing, the following actors are involved:

- The Danish Energy Agency including the Attorney General
- Politicians
- The media

The individual actors and stakeholder groups' involvement in the different phases are dealt with in more detail below in this section. The interaction between the various actors and Wind People is described on the basis of Wind people's experiences of various incidents during the course.

6.1.1 The Danish Energy Agency including the Attorney General

The Danish Energy Agency including the Attorney General is a primary actor in connection with the tender for the 350 MW nearshore wind turbines and the Wind & Welfare project process to bid on the nearshore turbines. This is based on that it is those who draw up the tender notice and documents for the tender, while at the same time they are the ones who control the tender process.

The Danish Energy Agency is involved throughout the entire process with Wind & Welfare. Implicitly, they define how Wind People may organise the project and thus which business partners Wind People needs, in order to be able to meet the pre-qualification requirements.

In the last phase of the complaint case, the Danish Energy Agency is again a primary actor as they are party to the complaint case. However, they are represented by the Attorney General during the proceedings, why this is described together with the Danish Energy Agency.

6.1.1.1 Wind People's experience of the dialogue with the Danish Energy Agency towards pre-qualification

Wind people's dialogue with the Danish Energy Agency concerning the tender of the nearshore wind turbines starts on 27 May 2014, the day where the Danish Energy Agency holds a kick-off seminar for the technical dialogue in relation to the tender. Wind People has overlooked the fact that the Danish Energy Agency jump-starts the technical dialogue, and therefore misses the kick-off seminar. On the same day however, Wind People is in touch with the Danish Energy Agency by phone and agrees that they also are included in the technical dialogue related to the tender. (Vangstrup, 2015g). As everyone who participates

in the technical dialogue, Wind People gets a period of grace for 4 August to forward input and questions about the tender and preparation of the tender documents. (Energistyrelsen, 2014a).

Wind People submits immediately after the beginning of the technical dialogue a document to the Danish Energy Agency, where they inform that there will be a 100% public tender, why the Danish Energy Agency should take this into account in the preparation of the tender documents. The Danish Energy Agency also comes with additional draft tender specifications in terms of what it should contain, in order not to exclude a public tender. (Vangstrup, 2015g). Towards the deadline for input to the technical dialogue, Lea Vangstrup's experience of the dialogue with the Danish Energy Agency is, that this is open and positive, and since the Danish Energy Agency does not come with any negative comments to Wind People's draft tender specifications, they subsequently just wait for the tender documents to be published, in the belief that the Danish Energy Agency has listened to their proposals. (Vangstrup, 2015g). Lea Vangstrup comments on the dialogue:

"I thought that I had a positive and open dialogue, and that they thought it was interesting, etc. This was my impression until 4 August where I was thinking; How exciting, now we may have an impact on a new development."(Vangstrup, 2015g) (Translated from Danish).

Wind people's perception of the Danish Energy Agency, however, begins to change concurrently with the publication of the tender. Wind People experiences, that the tender documents are not adequate and clear, why they, among other things, begins to call the Energy Agency with questions about content, and not least about the time schedule, as this is not included in the specifications. (Vangstrup, 2015g).

"It is actually not until we begin to get the tender documents and think that it quite unprofessionally composed, that we simply cannot assess the content and when do what happen, and a timetable is never sent out. We called several times claiming a time schedule, "well, there is going to be sent out something at some point". With this waiting process, we started to get annoyed with how amateurish it seemed, the way it was handled." (Vangstrup, 2015g) (Translated from Danish).

Lea Vangstrup also indicates that their counselor and their lawyer are annoyed by the tender documents. They had never experienced tender material like this through their work with international calls for tenders. Wind People experiences unclear things all the time, and, in particular, the lack of a timetable is a problem for them, as they do not know how to plan their work in relation to whether they may succeed in getting the project up and running. (Vangstrup, 2015g). Lea Vangstrup still describes that the dialogue between Wind People and the Danish Energy Agency proceeds in a civil tone. Only Wind People is wondering above the standard of the Danish Energy Authority's work. The Danish Energy Agency acknowledges that the tender notice is confusing, but they justify this by saying that it is because they are forced to apply an EU template in the design of the tender notice. Lea Vangstrup does not take this as a valid excuse, as she believes it will be possible to clarify this in the template no matter what. (Vangstrup, 2015g). In relation to the contract documents and the Danish Energy Authority's handling of the inquiries, Lea Vangstrup comes with the following example:

"If nothing else, we felt that we influenced the process in the way, that they changed it from the original text saying, that it was a technical capacity one would have internally within the company, to the fact that that it was something one could purchase. And when we then called them on the phone or wrote to them or both, telling them that we did not understand what you mean, do you mean this? Or this? "Well, we have also talked about it, and we did not quite know whether it was one or the other, but someone knows, so let us see." And so the day after it came out with a new text with a correction. This bears witness to the fact that they really have been in an internal process, which may not have been running as smoothly one could wish for when so much money is at stake." (Vangstrup, 2015g) (Translated from Danish)

It shows that the dialogue between Wind People and the Danish Energy Agency has been positive during the process towards the pre-qualification. However, Wind People had the impression that the Danish Energy Authority's work was amateurish.

The tone of the dialogue changes, however, as deadline for the application to the pre-qualification approaches, and Wind People finds out that their popular bid in no way can live up to the pre-qualification criteria. Lea Vangstrup is trying to get in touch with the Minister, but ends up just talking to the Head of Unit from the ministerial office. This dialog is further described in chapter 6.1.7. The contact with the Ministry results in Lea Vangstrup is getting a telephone conversation with the Head of Unit at the Danish Energy Agency. (Vangstrup, 2015g).

Throughout the telephone conversation Lea Vangstrup experiences a very positive Head of Unit who was very responsive to the things put forward by Lea, and asks her to send a position paper, which the Head of Unit will let the lawyers at the Danish Energy Agency look at. Furthermore, she suggests that the Danish Energy Agency and Wind People hold a meeting before the deadline, where they may discuss the issues. (Vangstrup, 2015g).

However, the attitude of the Head of Unit changes from the conference call to the actual meeting, held on 26 May, the same day as the deadline for pre-qualification applications. (Vangstrup, 2015g).

"When we came to the meeting, it was just a cold-hearted, business-oriented woman, obviously surrounded by the four women who had developed the tender. In one way or another, they also had left their marks on her statement," Well it cannot be any different, and we have done what we could for these people ".(Vangstrup, 2015g) (Translated from Danish)

As shown by the quote from Lea Vangstrup, the Head of Unit as well as the four employees from the Danish Energy Agency participate. The four employees are those who have worked out the tender. Lea Vangstups believes that these four employees have influenced the Head of Unit to take this new attitude towards Wind People and their proposals. (Vangstrup, 2015g).

Wind People is of the impression not being listened to when the organisation comes with the proposal and that the people Wind People addresses, act politely and interested in Wind People's paper, only to put them off. This is confirmed by Lea Vangstrup, who at a conference is addressed by one of the four female employees from the Danish Energy Agency. Lea Vangstrup asks the female employee if they have dealt with the material forwarded by Wind People, to which she replies that they have not related to it, since it is a heavy and slow process to get such changes through. Further, she adds, that they will start listening to them, if they should win the tender. (Vangstrup, 2015g).

At the meeting with the Danish Energy Agency on 26 May 2015, and forward-looking, the Danish Energy Agency, according to Wind People, begins to distort information submitted by Wind People. It is especially a certain inversion that Wind people highlights as an example of this:

"What really disappoints me at the meeting is to see how they start to distort the things we have said. Because until then, we have had a factual dialogue anyway, they just haven't really responded to things. But at that meeting, we get on the deadline day, we begin to experience how they distort things. It is the first time we experience that they distort things, and again I get the impression that it is the team of the four women who distort things. It is this distortion, you following can see in the documents "According to themselves they represent the two funds". According to themselves, is such a condescending way, No we ARE two funds. "(Vangstrup, 2015g) (Translated from Danish).

After the pre-qualification, where Wind & Welfare as mentioned is not pre-qualified, Wind People chooses to file a complaint with the Board of appeal, why the main communication from the Danish Energy Authority is now handled by the Attorney General. However, there is still no interaction and communication directly with the Danish Energy Agency.

Lea Vangstrup describes her experience with the Danish Energy Agency from the meeting on 26 May 2015 and subsequently as follows:

"So this is the process of development, I experience from this meeting and up to where we are today. That the Danish Energy Authority, in the form of the four women who have worked with it, has not related to the processing, but simply has tried to manipulate, twist and distort things to make it look in a way that turns out to their advantage. In the same process, it can be said that the Attorney General continues in his way of arguing in the legal proceedings, but this I might better relate to, as this is the game in a trial, to try and see how you can convince the judge, etc. with manipulation, etc.. It is still annoying, but expected. It is, however, not to be expected in the official duties from women in the secretariat. I think that it is simply too low a standard, in relation to the fact that we are a country like Denmark

with a certain well functioning structure. We should be able to handle that sort of thing. " (Vangstrup, 2015g) (Translated from Danish).

Bjørn Holmgaard from Wind People underpins Lea Vangstrup's and thus Wind People's experience of the dialogue with the Danish Energy Agency. He believes that the Danish Energy Agency has not taken Wind People seriously during the process. He says, however, that Wind People in early May was not linguistically sharp enough. At the same time, he believes that it would not have changed anything in relation to the Danish Energy Agency's attitude. (Holmgaard, 2015d).

Wind People is of the opinion that the Danish Energy Agency has tried to sow doubt about Wind People's professionalism and at the same time protect the incumbent Minister for Energy, Supply and Climate from the issue concerning the public tender and Wind People. (Holmgaard, 2015d). This they do by repeatedly applying the statement "Wind People, who claims to represent two non-profit foundations" in i.a. the answer to Steen Gade (Energi- Forsynings- og Klimaministeriet & Energistyrelsen, 2015) and in the reply from the Minister for Energy to the Energy Committee, about Wind People's role in the case. (Holmgaard, 2015d). Furthermore, Bjørn Holmgaard expresses:

"In General, the Danish Energy Agency has protected the Minister from the issue – partly when they before the elections kept away the case from Rasmus Helveg, and later when Lars Christian Lilleholt sent us a letter of minister simply maintaining that the management was contracted out to the Danish Energy Agency and the Attorney General – "it's not my fault "". (Holmgaard, 2015d) (Translated from Danish)

Bjørn believes that the Danish Energy Agency all along has had their own agenda. This he substantiate in an email, that Wind People has learned about through access to documents into the case (Holmgaard, 2015d) Here an employee describes that renewable energy is big business both cost and volume wise (Energi- Forsynings- og Klimaministeriet & Energistyrelsen, 2015).

"Dear [x],

Just want to say from my part, that I think it is a clear and sober explanation. It relates to the demand on solvency and professionalisation, and why requirements looks like they do.

And this may well be the way forward concurrently with the fact that the renewable energy in volume and cost is industrial big business, to which substantial demands can be made.

I put [Y] CC due to past case concerning possible ministerial line towards Wind People.

Best regards [Z] " (Energi- Forsynings- og Klimaministeriet & Energistyrelsen, 2015) (Translated from Danish)

6.1.1.2 The Danish Energy Agency's reactions in relation to Wind People

When Wind people's intentions of complaining to the Board of Appeal are published in the media, the Danish Energy Agency sends out, as response to this, a press release arguing in order to comply with procurement rules in connection with the tender. The Danish Energy Agency argues that it is normal that the state puts forward requirements to potential bidders in connection with government tenders, including financial requirements. (Energistyrelsen, 2015f). In the press release the Danish Energy Agency writes:

"For the tender of nearshore wind turbines, the Danish Energy Agency has designed requirements and other terms of the contract in the light of advice from the Attorney General and Deloitte as well as from the Danish Energy Agency's experience from previous tenders. In the terms, the wish for having the highest possible competition has also been taken into account. This has produced that the tender requirements in some areas are more gentle, than at the latest tender for nearshore wind turbines at Horns Rev 3, in order to give new actors a better opportunity to meet the minimum requirements and participate in the tender."(Energistyrelsen, 2015f) (Translated from Danish)

The Danish Energy Agency stresses further that they in the technical dialogue, in addition to Wind People, also has been in dialogue with a number of other companies, which also had specific requirements for the design of the pre-qualification requirements. The Danish Energy Agency attempted to take these wishes into account, but it was not possible to meet all enquiries in connection with the formulation of the requirements. (Energistyrelsen, 2015f).

6.1.1.3 Wind people's experience with the Danish Energy Agency and the Attorney General in connection with the appeal proceedings

Bjørn Holmgaard describes Wind people's experiences with the Attorney General representing the Danish Energy Agency during the complaint case. Wind People has tried to achieve conciliation with the Danish Energy Agency through mediation discussions with the Attorney General, without really being able to get through. It is not until Wind People presents that DONG may be affected by the case, that Wind People sees that the Attorney General will try to settle the matter between the Danish Energy Agency and Wind People. (Holmgaard, 2015d).

Wind People has throughout the proceedings kept it a secret who has helped them through the legal proceedings. Wind People thinks that this might have made the Attorney General underestimate the professionalism of Wind people's reasoning and handling of the case in the beginning. (Holmgaard, 2015d).

6.1.2 The fund Ærø's Vedvarende Energipulje (The Ærø Fonden)

The Ærø Fonden is the main actor in relation to Wind people's organisation of Wind & Welfare, as it would not exist without their appropriation of funds for the project.

The Ærø Fonden has been involved in Wind & Welfare from early in the process, where Wind People searched for funds for the organisation of the project. Lea Vangstrup reports that the Ærø Fonden not only has granted a sum of 2 million DKK, but that they have also entered the project, in which the Board of Directors is actively engaged. (Vangstrup, 2015g)

Wind People experiences a fruitful cooperation with the Ærø Fonden. The fund wants things presented factually, including consequences and risks, and following the fund acts quickly and backs up about things. At the same time, the fund has indicated to Wind People, that it wants to see the project through. (Vangstrup, 2015g).

6.1.3 Advisors

For the project development related to the Wind & Welfare project, Wind People needs to hire competencies from the outside. This concerns legal advice, in the form of lawyers, but also technical advice from consulting engineers and guidance on communication. Wind People's experiences with these various actors are described below.

6.1.3.1 Legal advisers

From the beginning, Wind People had counted on using the lawyer that they usually use in their organisation. It turned out, however, that this person was busy doing other things, even though he or she had accepted to work with the project before it actually became a reality. Lea Vangstrup is of the opinion that the lawyer did not believe that Wind People was serious about the project, why he undertook the task of another party that also would bid on the nearshore wind turbines. (Vangstrup, 2015g).

Although the lawyer was committed to another party, he advised Wind People about other lawyers who had the competencies to help them in connection with the organisation of the project. The law firms, which was recommended, was Kromann Reumert and Clements Law.

After a good dialogue and reflection, Kromann Reumert chose not to take on the task, since DONG was one of their core customers. They lacked the nerve to risk taking in Wind People as a customer, as it could have an impact on their relationship with DONG. (Vangstrup, 2015g).

Unlike Kromann Reumert, Clements Law may well assume the task and work with Wind People with the Wind & Welfare project. The relevant lawyer at Clements Law, who was allocated to the project, turns out to have a great deal of experience within the field and has worked with Vestas through foreign projects for a number of years. The lawyer from Clements Law recommends a consulting engineering company, K2 Management, whom Wind People did not really know about in advance. (Vangstrup, 2015g).

6.1.3.2 Consulting engineers

Wind People is basically only aware of four potential consulting engineers, Carl Bro, Rambøll, COWI and NIRAS. As previously described, the field of potential consulting engineers was quickly narrowed, since they either were committed to other companies, or Wind People was not sure about their competencies. (Vangstrup, 2015a).

As the field of potential consulting engineers reduces in Denmark, Wind People turns to Germany, where they get in contact with consulting engineers, who would like to take on the task. Lea Vangstrup informs that they were relieved to find some who could take on the task. But at the same time, she was also worried that they might not have the sufficient knowledge of Danish legislation and Danish conditions. (Vangstrup, 2015g).

The only real Danish engineering company, that Wind People sees as potential in relation to the project, is NIRAS, why Lea Vangstrup contacts them. The contact with NIRAS is initially not a pleasant experience for

Wind People, who does not feel respected by NIRAS' way to address them. Wind People has a feeling that Niras' relation to Dong Energy influences their handling of Wind people's request:

"It was quite clear that there were conflicts of interest there. I know from the previous Djursland/Anholt project, that some people at Niras were angry that they had DONG as core customer, working with us at the same time, as they could risk losing DONG. So it was the same atmosphere again." (Vangstrup, 2015g) (Translated from Danish)

However, Wind People gets in contact with an employee from Niras. In the beginning, Wind People experiences that they are not being taken seriously in their approach. It is described by Lea Vangstrup as follows:

"In the beginning I pressed them with questions like can you help us, or can you not help us?" "Well you go on out now and find some budgets first, then we can talk about it later", one of them said" (Vangstrup, 2015g) (Translated from Danish)

This attitude from Niras' employee really provokes Lea Vangstrup and she compares their request to Niras and their handling of this, with the movie *Pretty Women*:

"[...] I said that he made me feel like a prostitute, who stands there with all my crumpled banknotes in his hands, and he did not want them. "Oh well, that prostitute who comes in and then they all reject her arrogantly. Later on she just comes in with all her shopping bags saying Big mistake Big mistake" so he sits himself and repeats the entire history." (Vangstrup, 2015g) (Translated from Danish)

Wind People experiences that this comparison changes the mood with Niras' employee, who begins to take it seriously and expresses that they need to figure out something. Wind People still feels, that they are put on hold, as they themselves have to contact Niras again in order to be informed that a new person takes over the case. The person who is now in charges at Niras, never returns. However, a third employee gets back to Wind People after a long time.

"Nothing happens, but then eventually this woman gets back [...] She has worked with me before. She probably found out that, oops, if Lea again is on the pitch with a bid, we might take it seriously, as this is the second time that she is in action. So she gives me a completely different serious service, but again with this "We also have some other interests, Lea, which we have to square. Further, we should square with the Danish Energy Agency and there are also others who are interested". So I say "Yes, but can you answer me within so and so many days, as I need to know what I'm up against. I also need to know what are the cost due to a limited budget." (Vangstrup, 2015g) (Translated from Danish)

The new contact with Niras takes Wind People seriously and works to find a solution for them. In the end, the employee calls back and says that they do not have other customers, who prevents them from working with Wind People. This is why they may well offer themselves as consulting engineers in connection with Wind & Welfare. However, Wind People chooses to refuse Niras' offer.(Vangstrup, 2015g) .

In the meantime, Wind People has been in contact with K2 Management, through their lawyer, Clements Law. Wind People had no previous knowledge of K2 Management, only that one of the other advisers had mentioned them somewhat condescending, as consultants who were not potential in Denmark. (Vangstrup, 2015g). In the light of recommendation from their lawyer, Wind People chooses, however, to contact K2 Management, who turns out not to be married to any parties and therefore without problems may enter as adviser for the project. It turns out that K2 Management has an extensive experience in the field, as they have been involved in a large percentage of nearshore projects around the world.(Vangstrup, 2015g) .

The consulting engineers, who Wind People has had contact with in Germany, they keep in the project to ensure the quality of work that K2 Management executes. (Vangstrup, 2015g). With this Wind People maintains the good relationship with the German engineers.

6.1.3.3 Communication advisors

During the process, Wind People has had two communication agencies assigned as advisors in order to handle media and communication to the public. The two communication agencies were Have Kommunikation and PrimeTime Kommunikation. (Vangstrup, 2015g).

Wind People hires PrimeTime Kommunikation as an advisor for the project. PrimeTime Kommunikation should, among other things, develop a campaign for the social media, as well as an information movie, which was to be used in connection with the sale of shares to the Danish consumers. It turns out, however, that the PrimeTime Kommunikation's work did not meet Wind People's expectations. After Wind People has initiated the cooperation with PrimeTime, they find out that they have a close contact to the Minister for Energy. Wind People had the impression that this close contact to the Minister for Energy, had significance in the way that they could not get through to the Minister, as PrimeTime promised to pull the strings, which they ultimately did not do anyway. (Vangstrup, 2015g). PrimeTime's relation to the Minister for Energy, resulted eventually in the fact that Wind People terminated the cooperation with them. (Vangstrup, 2015g).

"So we ended up to fully pull ourselves from the co-operation with PrimeTime, simply based on a feeling that the relation to the Minister of Energy was far to close, in order for our interests to be represented in the communication." (Vangstrup, 2015g) (Translated from Danish)

In contrast to the cooperation with PrimeTime Kommunikation, Wind People experiences the cooperation with Have Kommunikation as a really fruitful and rewarding cooperation. Through out the process, Have Kommunikation has helped Wind People with a media strategy, where it guides Wind People through the process of making contact with the media. The communication agency advised Wind People in detail on when and how to contact certain media and politicians in order to increase their chances of getting their story out. However, Have Kommunikation is no longer affiliated to Wind & Welfare, which is solely due to

the fact that Wind People does not have the financial resources to sustain the cooperation. (Vangstrup, 2015g).

6.1.4 Enterprises

The companies are involved in the organisational phase of Wind & Welfare. In order for Wind People to meet the pre-qualification requirements in connection with the tender for the nearshore wind turbines, they have to set up a consortium, as mentioned. The companies are major actors in relation to the consortium, in order for this to live up to the pre-qualification requirement with an annual average turnover of four billions DKK. In addition, Danish companies are also in the running for becoming stockholders in the limited partnership, so that they buy up shares corresponding to their own electricity consumption. Wind People's experiences with both business categories are described below.

Wind People needs a partner in the consortium with a turnover of at least four billion DKK annually, why they are working hard to make contact with such large Danish companies. Wind people's approach in order to get in touch with the companies is from the beginning to address the firms from the bottom. Their experience with this approach, is that they have spent a lot of time and effort ending up not getting through. They are stopped because the employees, they are in contact with, are not in a position to make decisions and will therefore have to go to their managers, who may not have the time or interest in looking at the project. So Lea Vangstrup's experience with going through the employees is that there is too far to the top, where the final decision is taken. It is not enough to get employees motivated and rely on, that they will and can convey the project further in the system. (Vangstrup, 2015g).

Lea Vangstrup also experiences that it can be difficult to get through, even when they are approaching the top of the companies. Here she experiences, that they are stopped by the executives who do not dare presenting the project to their Chief Executive Officer(CEO), as they will not risk to be left in a bad light, if the CEO is not pleased with the project. (Vangstrup, 2015g).

Wind People used this approach of going through the businesses from below in four to five months without success. Hereafter the organisation changed its approach and tried to get direct contact with the managing directors in the companies. Their approach was changed after advice from one of the managers from Handelsbanken, with whom they are also in contact. He recommends them to address the CEO directly. At the same time he tells Lea Vangstrup how she may get past the personal assistant, who so far has acted as strict gatekeeper in order for Wind People to get through with the project. (Vangstrup, 2015g).

Lea Vangstrup ends up with getting directly in contact with the CEO, by referring to the fact that relevant managers from Handelsbanken had recommended her to talk with him. The contact with the management of COOP also leads to Wind People's contact to i.a. the CEOs of COOP Invest and OK. This is done by approaching the manger's level of the companies directly, through persons with a personal relationship to the relevant manager. This approach ensures that Wind People has been well accepted by the companies, and that Wind People will be taken seriously when presenting the project. It does not end up with that the companies could join the consortium, but Wind People experienced that resources were committed to them, and that they get an unbiased treatment. (Vangstrup, 2015g). Based on her experience through the process of contacting companies, Lea Vangstrup puts it this way:

"So a really important experience from this project, is to address the CEO directly from the beginning - but find a way to pass by the personal assistant, as he or she may be a gate keeper. Networking, personal contacts, who may open the door or who can make contact with the person are essential issues." (Vangstrup, 2015g) (Translated from Danish)

Furthermore, Lea Vangstrup points out, that it is important that they themselves present the project, as she some places experiences, that the managing director has seen the project, but has not prioritised to take a closer look at it, as they constantly receive projects. (Vangstrup, 2015g).

Even though Wind People did not succeed to find a company with a turnover of four billion DKK, which is willing to be liable for the project, they managed anyway to get a positive response from several companies that think it is a good project. Specifically, COOP showed much interested in the project, and even if they could not join the consortium and be reliable for the project, they chose to help the project by advertising the project and by selling shares in all of their stores around Denmark. (Vind og Velfærd, 2015a).

In addition to search for businesses with a turnover that could meet the pre-qualification requirements, Wind People also worked on getting companies to buy shares in the limited partnership. It is Wind people's experience that Danish companies are clamoring for lower energy prices, but they are not willing to do anything to get them. Lea Vangstrup finds that companies are not willing to invest in green energy, unless they get a return of minimum 15%. An investment in shares of the Wind & Welfare project could give a return of between six and nine%. One of the things, Lea Vangstrup points out, is that even companies that boast of being green, are not willing to invest in green energy with lower returns than the return from their core areas. (Vangstrup, 2015g).

6.1.5 Suppliers

Suppliers are proving to be major actors, as the organising of a tender may fall to the ground, if turbine suppliers to the project cannot be found. The turbine suppliers appear in the phase with the organisation of the project towards the pre-qualification. The following describes Wind People's experiences with obtaining turbine suppliers to Wind & Welfare.

Wind People has experiences from the past with the two Danish wind turbines suppliers, Siemens and Vestas, from when Wind People tried to organise a bid for the turbines at Djursland-Anholt. In relation to the tender for Djursland-Anholt, neither Vestas nor Siemens would provide Wind People with turbines. Where Vestas openly said that they would not deliver turbines for Wind People and popular projects, Siemens was more strategic in their statement. Siemens did not say directly that they would not deliver turbines, but that Wind People had to pay a sum of 8% of the total amount of the project in advance, if they were to deliver turbines. That amount would then be lost in the case that Wind People did not win the tender. (Vangstrup, 2015g).

On the basis of their previous experiences, Wind People is not optimistic in relation to find wind turbine suppliers to the Wind & Welfare project. Wind People leaves all communication with potential suppliers to their advisor K2 Management. K2 Management is unlike Wind People very optimistic in relation to find

turbine suppliers for the project, since they have never experienced, that this may be a problem. (Vangstrup, 2015g).

K2 Management initiated the dialogue with both Vestas and Siemens. K2 Management's dialog with Vestas goes as far as they discuss the optimal choice of turbine types with Vesta's technicians. However, they come up against a brick wall when they reach the sales level in Vestas. Here they meet a closed door and get to know that Vestas will not deliver turbines for Wind & Welfare. The answer from Vestas' sales director is as follows:

"MHI Vestas Offshore Wind is currently re-evaluating our strategy for the Danish Nearshore market. We are therefore not in a position to respond to your request for the time being. Once we have finalised this process and have our strategy ready we will be happy to enter into a dialogue and further explore how our strategies match together."
(Vestas, 2015).

Siemens' reaction to K2 Management's approach is also a rejection. The rejection is justified on the basis that they will not be able to deliver at an appropriate professional level, since at present they do not have the required resources. (Vangstrup, 2015a).

The rejection from Siemens and Vestas does not come as a surprise to Wind People, since it is in the line of previous experiences with them. Therefore, Wind People contacts Risø, who approves turbines. This to find out how long it will take to get type-approved a foreign turbine. The answer is between one week, if the turbine has already been set up in Europe, to 20 years, if it is an unknown turbine. (Vangstrup, 2015g).

Wind People takes contact to a number of foreign wind turbine manufacturers, as this is their only opportunity to get turbines for the project. The wind turbine manufacturers, they contact are: French ALSTOM, German Senvion, and Chinese Envision. Wind People has a positive dialogue with the foreign suppliers, and eventually ends up with further work with the supplier from China, Envision. (Vangstrup, 2015a). K2 Management estimates that a type approval of Envisions turbines could be achieved within approximately one year. (Vangstrup, 2015g).

However, they do not come far in the contact with foreign turbines, as K2 Management continuously tries to get in touch with Vestas and Siemens. Vestas never gets back, but K2 Management succeeds in getting in contact with Siemens again. They have now changed attitude towards cooperating with Wind People. (Vangstrup, 2015g).

"Immediately after, we had the meeting, and at that meeting, they said right away, "well, we would like to deliver to you". Then we say at the meeting, well, what is the reason that you would not deliver before? "It's very simple, there are no resources for it". This is what I say well come on – there are no resources? "Well, you must understand it in the way, that we look at who we believe can win this tender. Those we believe can win are the only ones we bother to deal

with. This is what we mean when we say that we do not have the resources for it "." (Vangstrup, 2015g) (Translated from Danish)

Siemens is now in favour of providing turbines for the popular project, and now the company also offer of a turnkey project, which means that Siemens stands for the entire delivery of the turbines. This was a very positive development for Wind People, as a turnkey project will ensure greater security in the project, which they needed to show to stockholders. (Vangstrup, 2015g)

Lea Vangstrup believes that Simens changed their interest in the project due to the fact that K2 Management got in touch with the top levels of Simens and had the project presented so that they could see that it was a substantial project, which they themselves could have some benefits of delivering to. (Vangstrup, 2015g).

6.1.6 Financial institutions

The financial institutions are involved in the organisational phase of the project, because Wind People works on finding financing for wind & Welfare. Wind People's experiences with the financial institutions are described below.

To begin with, Wind People aims for banks, which the Danish consumers are comfortable with. Therefore, they Wind People contacts the banks Nordea and Handelsbanken, since they are the ones who have the necessary size to go in and finance the project. Wind People is well received in both banks, but both banks require that Wind & Welfare has a big brother in the back, which can provide financial guarantees for the project. (Vangstrup, 2015g).

Both banks are welcoming Wind People and the project, and they spend time and resources on meetings with Wind People and examine the possibilities for, how they may help them. As mentioned above, one of the managers of Handelsbanken is so enthusiastic about the project that he, through personal relations, helps Wind People to get in touch with COOP. (Vangstrup, 2015g).

Since both of the major banks, Nordea and Handelsbanken, will not finance the project unless Wind People has an older brother in the back, Wind People chooses to make contact with smaller Danish banks to try to make an association of banks, which may stand for the funding. Wind People also contacts i.a. the following smaller Danish banks: Ringkjøbing Landbobank, Sydbank and Arbejdernes Landsbank. None of these banks agree to fund the project. The banks have various arguments for not going into the funding. Sydbank has no experience with offshore and therefore does not dare to enter this area, while Arbejdernes Landsbank believes it is too small to enter. Ringkjøbing Landbobank is very interested in the project and would like to join, but it is so small that it does not know what it may offer in this respect. (Vangstrup, 2015g).

Even if the majority of banks refuses and they do not achieve a final nod from one or more banks towards the pre-qualification, it was still a predominantly positive dialogue, Wind People had with the Danish banks. (Vangstrup, 2015g).

Throughout the process, Lea Vangstrup experiences that the Danish banks generally have very little knowledge about how good the economy is within the wind turbine field. (Vangstrup, 2015b).

Besides the Danish or Danish related banks, Wind People also contacts some foreign banks, including the Swedish SEB, the German HSH Nordbank and the French Société Générale. However, none of these banks can undertake the financing of the project either. (Vangstrup, 2015g).

Lea Vangstrup gives an example of their contact with the Swedish bank SEB, where they have a really bad experience of not being taken seriously in their approach. (Vangstrup, 2015g).

"SEB, DONG's friends, were incredibly unsympathetic really harsh. They simply were very rude and condescending — Well, if they absolutely had to take a meeting with us, we should pay 10.000 DKK [...] as they were certainly not willing to have expenses caused by a meeting with us. Well, they were exceptionally patronizing and rude. And they were the ones, who, among other things, financed DONG."
(Vangstrup, 2015g) (Translated from Danish)

At the end of the process, Wind People takes contact to a financing company, Green Giraffe, which, among other things, helps to find financing for renewable energy projects, and with whom Wind People's adviser, K2 Management, has a good working relationship. (Vangstrup, 2015c)(Green Giraffe, 2015). Green Giraffe is in favour of the project and after being introduced to the project, they say, that it should be possible to find financing for the project. Green Giraffe approves the key figures in the Wind People project. With this they open up for Wind & Welfare to be funded through the Green Giraffe's portfolio of international banks. Green Giraffe even indicates that it believes there is a real chance that Wind People may win the tender. In the light of the positive attitude from Green Giraffe, Wind People chooses to proceed with investigating the conditions in connection with a financing set up by Green Giraffe. (Vangstrup, 2015c).

6.1.7 Politicians

Politicians are major actors in the sense that it is the politicians who primarily sets the foundation for the work of the Danish Energy Agency. Politicians are therefore an important actor in the process of accepting popular projects in connection with invitations to tender, such as the tender for nearshore wind turbines. Wind People's contact with the politicians takes its starting point at the end of the project organisation phase. It increases, however, during the final stage in connection with Wind People's attempts to reach a settlement in the complaint case against the Danish Energy Agency. Wind People's involvement and interaction with political figures and parties are therefore described in detail in this section.

Wind People's first attempt to involve politicians in the problematic issues concerning the tender for 350 MW nearshore wind turbines is shortly before the application deadline for pre-qualification in connection with the tender. After the failure to get the pre-qualification requirements changed through dialogue with the Danish Energy Agency so popular bids pre-qualify, Wind People attempts to contact the Minister for Energy directly.(Vangstrup, 2015g).

Lea Vangstrup makes a call to the Ministry, where she speaks to the head of the ministerial office. Lea Vangstrup gets the impression that the Head of Office is very responsive to the issues she presents. Therefore she decides to decline the offer to be diverted to the Minister, as the Head of Office assures her that he will put forward the issue to the Minister directly and she will get answers from the Ministry(Vangstrup, 2015g). However, Wind People does not hear back from the Ministry so Lea Vangstrup

contacts the Head of Office at the ministerial office once more. Here she meets a very different attitude than the one a few days before. The Head of Office now has an arrogant attitude and says that Lea Vangstrup must convince the Head of Office at the Danish Energy Agency, before he will interfere in the matter. Lea Vangstrup senses that she and Wind People have been put off by the Head of Office at the ministerial office, and she subsequently regrets her decline to be diverted to the Minister at her first inquiry.(Vangstrup, 2015g) . Wind People's first attempt to involve politicians turned out unsuccessful, and the organisation finds that it is being put off in its attempt to reach the Minister.

After the decision on pre-qualification, Wind People became more active in its attempt to involve politicians, e.g. by participating at the annual Political Festival on Bornholm. As described previously, Bjørn Holmgaard chooses to focus on the political parties, the Red-Green Alliance (Enhedslisten) and the Alternative(Alternativet) at People's Political Festival as he believes these are the easiest to get through to.(Holmgaard, 2015i) .

The dialogue with the Red-Green Alliance, however, ends up with a statement that they will not go into the matter as long as the complaint against the Danish Energy Agency is not settled. They also point out that they do not believe that other parties will go into the matter at this point, because they believe that the parties will wait for the ruling in the case.(Holmgaard, 2015i) . The representative from the Red-Green Alliance points out to Bjørn Holmgaard that none of the politicians had considered that the general conditions would mean exclusion of popular appeal in the tender when they were presented with this. Upon reflection, Bjørn Holmgaard realises that they should probably have entered into dialogue with politicians far earlier in the process, prior to the pre-qualification. Instead, Wind People have put its trust in its belief that dialogue with the civil service was enough to influence politicians.(Holmgaard, 2015i) .

Bjørn Holmgaard, however, establishes a positive dialogue with the Alternative at the People's Political Festival, and has subsequently continued this dialogue(Holmgaard, 2015i). In addition to its dialogue with the Alternative, Wind People has tried, during the proceedings, to enter into dialogue with several of the political parties to try to influence a settlement in the case. This, however, without great success. Bjørn Holmgaard addresses, among others, the Danish Social-Liberal Party (Radikale Venstre) and the People's Socialist Party (SF), but none of them get back to him. The Conservative People's Party (Det Konservative Folkeparti) does not have the capacity to get involved in the case and refer Wind People to approach some of the major parties instead.(Holmgaard, 2015h) .

The dialogue with the Alternative results, however, in a motion for resolution put forward to the national parliament of Denmark on 4. December by the Alternative and Liberal Alliance to "strengthen the competition and financial bid bond at governmental tenders for nearshore wind turbines". (Alternativet & Liberal Alliance, 2015)The resolution is described in further detail in chapter5.2.4.

The reasons why Wind People did not approach the politicians directly early in the process, was because of the belief that it could influence civil service through sensible arguments. Wind People, however, is of the opinion that the civil service had its own agenda with a desire to promote the possibilities for a few companies, and therefore they have not listened to arguments put forward by Wind People.(Holmgaard, 2015i).

6.1.8 Media

The media can put different issues on the agenda, and Wind People has utilised the media to place focus on its complaint against the Danish Energy Agency. This section describes how Wind People has used the media to place both national and international focus on its problem.

Wind People has successfully communicated its story through several different media during the course of the complaint proceedings. According to Wind People, this is due to cooperation with the communication bureau Have Communication. Their cooperation is described earlier in this chapter under section 6.1.3.

As stated in section 5.2.4 "Wind people's attempts to achieve a settlement without going through the complaint case". Wind People's story is featured in several Danish news media such as Politiken, EnergiWatch, Berlingske Nyhedsbureau and DR1. In addition, Wind People gets foreign attention through web articles on Leonardo Energy and The Energy Collective.

It is consistent for the articles that through Wind People's story, they describe how a demand for 4 billion DKK in business turnover puts up a barrier for popular projects and the ability to be invited to tender.

When the Board of Appeal made the final ruling in the case public, EnergiWatch brings an article where it describes the ruling as a step closer to a decision, but there is still doubt as to whether the tender is against regulation to national and international procurement rules.(Johansen, 2015a) . The article describes that Wind People views the case as a victory, as the organisation is sure that the bid winner will be able to make money based on the state aid associated with the project. Further, from the article it is apparent, that the Attorney General has expressed the view that the decision in this case could impact on the Danish Energy Authority's other invitations to tender in nearshore turbine concessions, depending on the outcome of the decision. However, the Attorney General does not comment directly in the article.(Johansen, 2015a) .

6.1.9 Citizens

Since it is private citizens and other Danish electricity consumers who must be willing to buy shares in the project, citizens are major actors in Wind & Welfare.(Vind og Velfærd, 2015a) . It is therefore essential for Wind People's popular project that it has popular support, so the general public is willing to invest in the project.

At the initialising stage of the Wind and Welfare process, Wind People decided to conduct a survey among Danish citizens to examine the level of support for a project such as Wind & Welfare.(Holmgaard, 2015d) .

Wind People's study is based on responses from 11 individuals dispersed among members of local political party units at various locations in Denmark.(Wind People, 2014) . This is to easily make a stratification between respondents.(Holmgaard, 2015h) . The study includes four members of the Danish People's Party (Dansk Folkeparti), four members of the Liberal Party (Venstre) and three members of the Social Democratic Party (Socialdemokraterne), or the People's Socialist Party.(Wind People, 2014) .

Wind People generally experiences wide support for the project, also from the political right wing. The political right wing, however, prefers to also make money on the green conscience. Members of the Danish People's Party also turn out to be positive towards tax money for welfare as well as Danish ownership. Generally, however, it is preferred to place the wind turbines out at sea to avoid nuisances.(Wind People, 2014) .

In addition to the survey among the 11 local party members, Wind People has an opinion poll prepared by a professional market research company. The poll includes about 1000 individuals, but due to lack of financial resources, Wind People has to downgrade the implementation of this poll. Therefore, the study is not implemented.(Vangstrup, 2015h) .

6.1.10 Invisible actors

Through the process, Wind People has acknowledged that there are a number of invisible stakeholders associated with the development and execution of this size of projects. Among others in the form of lobbyists, who impact on decisions among politicians and civil service.(Vangstrup, 2015g) . The invisible stakeholders appear several times throughout the process, where they likely impact on the Danish Energy Agency's preparation of tender conditions. Through the process, it becomes apparent that competitors within the market for nearshore wind turbines have significant impact in relation to each other's possibilities to organise a bid.

Wind People has experienced this mutual power among competitors when the organisation has contacted potential advisers who, in one way or another, have had ties to competitors within the industry, and therefore not been able to welcome Wind People as customers, as this will cause conflicts of interest. This is seen, for instance, when Kromann Reumert had to decline Wind People to avoid a potential conflict with Dong Energy.(Vangstrup, 2015g).

Competitors can also serve as a barrier to a project because they can make exclusive agreements with turbine suppliers, who are then prevented from supplying other actors involved in a given tender .(Vangstrup, 2015g) .

The conclusions about competitors as an invisible actor with great mutual influence are based on Wind People's case with Wind & Welfare, and therefore there can be a degree of uncertainty in relation to whether this is a general phenomenon in the market, or whether this is an isolated case in connection with Wind & Welfare. The internal relationships among competitors and level of competition are, however, not examined in further detail in this report.

7 The organisation Wind People and its development through the process

The purpose of the analysis in this chapter is to describe Wind people's development through the process. This is done on the basis of the temporal examination of Wind People's process in connection with the tender process for the 350 MW nearshore wind turbines and the subsequent complaint proceedings, as well as the stakeholder analysis of the groups and actors Wind People has engaged with during the process. The chapter thus answers the question: *"how does a non-profit organisation develop through a process of dialogue with decision makers and key stakeholders?"*

7.1 Wind People's development throughout the process

Wind People's development through the project process is clearly seen through its handling of the various challenges encountered during the process. As described in chapter 1.2.1, Wind People builds on previous experiences from the tender for nearshore wind turbines in Djursland-Anholt, where Wind People also tried to organise a bid.

7.1.1 Collaborators to form a consortium

The first challenge Wind People faces is the need to establish a consortium for the Wind and Welfare project. Because Wind People as an organisation does not have a turnover, a consortium is needed to be able to meet the requirement for a 4 billion DKK turnover.

When establishing a consortium for the Wind and Welfare project, it is essential that Wind People can find a company that is willing to engage in and support the project and enter into the project as a partner with their turnover. The challenge in this regard is twofold: one, the company must engage as a partner in the project without a direct share in the project and its return, unless the company decides to buy shares equal to its electricity consumption on the same terms as private citizens and other Danish companies, and two, as a partner the company is committed to joint and several liability for the entire project along with the other syndicate partners. In the case of Wind and Welfare, the consequence is that the company must enter into a syndicate and agree to joint and several liability with partners who have no actual financial resources.

Far into the process, Wind People finds it difficult to get through to the companies, and sees that the project is curbed on its way through the organisational systems before it reaches the executive managers or decision makers. At the beginning, Wind People's approach is to go through the administrative employees and get them to submit the project for their superiors and executive managers. Experience shows, however, that the project never progresses through the system. Wind People's experiences show various reasons for this. One of the reasons is that there is often a wide gap from the employee to the CEO or the administrative decision maker. Therefore the project easily ends up on a desk on its way through the organisation. Another reason, pointed out by one of the companies, is that large companies continually receive inquiries about participation in various projects, which means that a project easily ends up as one in a pile of many.

Wind People's way into the companies turns out to be through an active use of networks by finding people with relation to the executive managers within relevant companies. This shows how important a strong professional network is, especially as a new market entrant.

7.1.2 Turbine suppliers

Wind People's experiences from the tender for the nearshore wind farm at Djursland-Anholt cause loss of optimism in the belief that the two large wind turbine manufacturers Siemens and Vestas will supply turbines for Wind & Welfare. Wind People therefore decides to let all communication with turbine suppliers go through its consultants, K2 Management. Since K2 Management has previously collaborated with turbine suppliers in connection with other projects, it has greater knowledge and experience with communicating and negotiating with these suppliers.

7.1.3 Interacting with the Danish Energy Agency

Wind People's interaction with the civil service, the Danish Energy Agency, also shows a progress in the way the two actors communicate and interact. At the beginning of the process, Wind People experiences that the Danish Energy Agency is listening and recognising solicitations. Wind People experiences, however, that throughout the process and with the publication of the tender notice, the Danish Energy Agency keeps stalling and does not really take account of the issues raised. This becomes evident in relation to the revenue requirements in connection with the pre-qualification of bidders for the tender.

There are indications that the employees at the Danish Energy Agency acknowledge the objections and suggestions pointed out by Wind People, but that they are not acting on them, as they are instructed to follow a different agenda. The argument for this observation is found through the actions of the Head of Office at the Danish Energy Authority in connection with the meeting between Wind People and the Danish Energy Agency on the 26th of May, the same day as the application deadline for pre-qualification. Initially, during a telephone call, the Head of Office expresses an understanding of the problems presented by Wind People, and she herself suggests the meeting on 26th of May 2015, where the purpose is to discuss the pre-qualification requirements and Wind People's opportunities. However, at the meeting the Head of Office has a different attitude towards Wind People and expresses the opinion that the civil service will not take Wind People's objections into consideration in connection with the bidding process, and that the civil service has done all it could for Wind People.

Another example supporting the assumption that the Danish Energy Agency has an agenda to follow is Lea Vangstrup's random encounter with an employee from the Danish Energy Agency. Here, the employee expressed the belief that it is a heavy and slow process to get changes through in relation to how tender documents are drawn up and the contents thereof. At the same time she informs that the Danish Energy Agency will not listen to Wind People, until it has won the tender.

These events indicate that the civil service follows some norms and routines embedded over time, and therefore they are not questioned in connection with the preparation of new invitations to tender. This is consistent with the theory of institutional power, which also describes that this can be a barrier to development (S. Christensen & Jensen, 2008). The civil service is obviously not willing to listen to Wind People, but it is to be expected that other players in the industry will be heard. Thus, there are indications that the civil service is influenced by larger players in the market. However, this is not further examined in the report, and therefore no definitive conclusions can be drawn.

Wind People failed to change the terms for pre-qualification requirements in connection with the invitation to tender for nearshore wind turbines, but realised that civil service is not acting strictly according to the

official line of command, but is influenced by internal factors such as routines and standards, but probably also by external lobbying from major actors in the industry.

7.1.4 The complaint proceedings against the Danish Energy Agency

After the process leading to the pre-qualification, there is a development within Wind People and how the organisation works with the complaint against the Danish Energy Agency, which indicates that Wind People has gained knowledge and recognised how actors interact in the market, and that political lobbying is essential in order to achieve own goals.

The actual complaint can be seen as a development of Wind People's way of acting. Through the process leading to the pre-qualification, Wind People tries to get a dialogue going with the Danish Energy Agency about changes in terms for the invitations to tender. Wind People, however, finds that it is not being heard and thus feels compelled to initiate a complaint against the Danish Energy Agency in order to keep the dialogue open about the change of terms for tenders. During the complaint process, Wind People takes on a more professional and legal approach to communication with the Legal Advisor to the Danish Government/Danish Energy Agency than the previous dialog.

Through the entire process, Wind People has become very conscious about the effects of lobbyism, which is seen by the fact that parallel to the complaint against the Danish Energy Agency, Wind People is initiating lobbyism to win politicians over, so they can affect a settlement in the complaint proceedings. In this process, Wind People also experiences difficulties in engaging politicians in relation to the specific case, which, according to the Red-Green Alliance, is due to the fact that the politicians do not want to get involved in a complaint that is ongoing. As mentioned, no settlement is reached in the complaint proceedings. Wind People should probably have started a political involvement when the organisation experienced problems in relation to popular projects and pre-qualification possibilities, instead of merely communicating with the Danish Energy Agency.

Yet, Wind People's work with politicians is a success in the sense that the political parties the Alternative and Liberal Alliance decide to put forward a proposal to the national parliament of Denmark on "strengthening the competition and financial bid bond at governmental tenders for nearshore wind turbines".(Alternativet & Liberal Alliance, 2015) .

7.2 Development of the organisation

Broadly speaking, Wind People's process with Wind and Welfare identifies three phases that Wind People passes through. At the early stages of the process, where Wind People starts to organise the project, contact different advisors and collaborators and communicate with the Danish Energy Agency, Wind People believes that the prescribed lines of command through companies work, and that the organisation can create an interest in its project. During this process, Wind People comes to realise that the prescribed line of command does not always work, since the project is stalling in the system and never reaches decision makers. The last phase Wind People passes through, and probably continue to find itself in, is a stage, where Wind People acquires knowledge on how various actors behave and the basis for their behaviour. Based on this understanding, Wind People can operate accordingly to achieve own goals. The three phases are illustrated in Table1.


Development phases experienced by Wind People in connection with the Wind & Welfare project			
			
The three phases:	Belief in "the good"	Realisation	New knowledge and action patterns
Phase characteristics:	Belief that things always progress in accordance with the prescribed procedures	The realisation that things do not always progress in accordance with the prescribed procedures	Knowledge on how to act in order to enter the market or get plans through in various systems and situations
Learnings in the phases:	<ul style="list-style-type: none"> - The prescribed procedures are always followed 	<ul style="list-style-type: none"> - The lines of command affected by external factors - There are invisible stakeholders who can be of great importance for the actors' success. 	<ul style="list-style-type: none"> - The value of a strong professional network - The importance of direct communication with the final recipient - The importance of solid and timely lobbying

Table1: summary of the identified learning processes Wind People passes through with the Wind and Welfare project, and the knowledge gained. (Own illustration).

The learning process Wind People undergoes in connection with the tender for the 350 MW nearshore wind turbines, develops the organisation to be able to overcome barriers it had no preconditions or competences to overcome at the beginning. At the same time, this organisational development means that in the future, Wind People can build on the experience gained from the Wind and Welfare project in order to promote popular nearshore wind turbine projects.

If Wind People's development through the Wind & Welfare process is put in relation to the theoretical framework, it is clear that Wind People has come to touch the knowledge element for the technology, the expansion of offshore and nearshore wind turbines in Denmark. Through the process, Wind People has acquired knowledge on how markets work and how to act towards various actors in the industry. At the same time, Wind People's market entry has apparently sparked a change among market actors as Wind People begins to get its project through.

That the knowledge element begins to change is evident through the change in Siemens Wind Power's attitude towards Wind People's project. At the outset, Siemens Wind Power does not believe in the project and will not supply turbines, but gradually this attitude changes and Siemens Wind Power starts to believe that the project can win the tender and therefore would like to deliver turbines for Wind People.

8 Analysis of the non-profit organisation's options in connection with the invitation to tender for the nearshore wind turbines

The purpose of this chapter is to analyse the non-profit organisation's opportunities for tendering in the market for nearshore wind turbines under the current framework conditions. The analysis is based on the knowledge gained through the temporal mapping of Wind People's process of the Wind & Welfare project, as well as the mapping of the network surrounding this.

Although Wind People failed to pre-qualify in connection with the invitation to tender for nearshore wind turbines, this does not mean that it is impossible. This analysis is based on the criteria that potential bidders must meet in order to pre-qualify in accordance with the tender notice for the 350 MW nearshore wind turbines in Denmark.

8.1 Regulatory framework for the tender for nearshore wind turbines

The tender notice sets out three criteria that potential tenderers must meet in order to pre-qualify in connection with the tender for 350 MW nearshore wind turbines. In this section the starting point is analysing these three criteria and how they impact on the non-profit organisation's opportunity to be included in the tender for nearshore wind turbines. The three criteria are:

- The applicant must present an average turnover of 4 billion DKK over the past three years.
- The applicant must have an equity ratio of 20% or more. For financial institutions, however, they must have a credit rating of BBB-or above (Standard & Poors and Fitch) and/or Baa3 or more (Moody's) or an equivalent rating by another renowned credit rating agency.
- The applicant must have at least one reference to an offshore project with an installed capacity of minimum 30 MW within the last five years.

8.1.1 Turnover of 4 billion DKK

The pre-qualification requirement for an average turnover of 4 billion DKK over the past three years, is the requirement that causes the greatest barrier for Wind People to be able to tender for the 350 MW nearshore wind turbines.

The contracting authority, in this case the Danish Energy Agency, has, as mentioned in the chapter 4.2, a legally valid opportunity to set a revenue requirement at twice the estimated size of the contract. In this case, this would mean that the Danish Energy Agency could have set the revenue requirements at 14 billion DKK in connection with the tender. The Danish Energy Agency assesses, however, that the risks associated with this invitation to tender will only require an average annual turnover of 4 billion DKK to ensure that the tenderers can honour the contract. The Danish Energy Agency is not going into detail on the level of revenue requirement.

The revenue requirement and the other criteria set by the Danish Energy Agency control which companies have the opportunity to tender for the nearshore wind turbines. At the same time, the size of the revenue requirement is of great importance in relation to the level of competition for the tender.

The case study reveals that a non-profit organisation with a 100% popular project will be stalled by the 4 billion DKK revenue requirement, as non-profit organisations are most often driven by enthusiasts and dependent on fundraising for project development. Therefore, they have only a very small or no turnover. At

the same time, a 100% popular project means that financial resources for the project are raised through sale of shares to businesses and private citizens as part of a limited partnership, also without a turnover. This means that if a non-profit organisation wants to tender with a popular project for tenders the size of the project for nearshore wind turbines, it is necessary to establish a consortium that can meet the criteria laid down in the tender notice.

It can be argued that the revenue requirement in itself does not preclude non-profit organisations from tendering for the nearshore wind turbines, but it requires the establishment of a consortium with a partner that can deliver an average annual turnover of 4 billion DKK during the past three years. In order to do this, the non-profit organisations will have to enter into cooperation structures not previously seen for these types of organisations, and they need to learn how to be included in the new structures.

Establishing a consortium will likely mean that it will prove difficult or almost impossible for a non-profit organisation to make a 100% popular project, since business companies are dependent on a certain rate of return. The process has shown that it is impossible to find a company willing to be part of a consortium with economic risk and limited project ownership.

Wind People's attempt to organise the project Wind & Welfare shows just how difficult it is for a non-profit organisation to convince companies to enter such a project where there is a requirement for joint and several liability. Wind People failed to find a company willing to enter into the syndicate with its turnover, and that was what made the difference in relation to the failed pre-qualification in connection with the tender for the 350 MW nearshore wind turbines.

8.1.2 Equity ratio at 20%

The requirement for an equity ratio of at least 20% and the revenue requirement ensure that tenderers are financially able to honour the contract. The purpose of the equity ratio is to show how resilient the tendering business is to potential loss. In relation to the equity ratio, Deloitte points out, in its analyses prepared for the Danish Energy Agency, that special requirements are needed for financial institutions if equity ratio is selected as a criterion, since financial institutions do not achieve as high equity ratio as ordinary businesses.

In the final pre-qualification requirements, the Danish Energy Agency takes into account the fact that the financial institutions cannot achieve the same equity ratio as other tendering organisations and therefore there are specific criteria for these in the form of credit ratings.

In the case of Wind and Welfare, the pre-qualification requirements are attempted met through the establishment of a consortium consisting of Ærø Fonden, a limited partnership Wind and Welfare and a company that can meet the revenue requirement, see. Chapter 5.1. This means that for this consortium to meet the 20% equity ratio requirement, each of the partners must live up to the requirement, since they will all be financial partners in the consortium.

In Wind People's application for pre-qualification, Ærø Fonden meets the requirement for an equity ratio of 20% or more, but because Wind People has not managed to find an organisation to join the syndicate, the application is rejected due to lack of turnover.

8.1.3 Technical Capacity

The requirement that the tenderer has a technical capacity in development and operation of at least 30 MW offshore wind turbines within the past five years, is to ensure that tenderers have the necessary experience to ensure project quality.(Europa-Parlamentet, 2014).

The Danish Energy Agency has designed the requirement of the technical capacity so tenderers can also buy this competence from outside. This means that the tenderer can hire consulting engineers with the requested technical capacity without making these consultancies direct project partners. Thereby, tenderers still meet the requirement for the technical capacity.

If the requirement for technical capacity is put in relation to non-profit organisation's opportunities to enter the market for nearshore wind turbines, it can be argued that the requirement for technical capacity is of no importance for non-profit organisations or popular projects opportunities to tender, as the technical capacity is not requested as an in-house resource.

The case study shows that this is not a problem as Wind People is able to meet the technical requirement through one of its consultants, K2 Management.

8.1.4 Additional factors in the framework conditions

The tender notice contains further deadlines and requirements in connection with the tender for nearshore wind turbines, which are important for tenderers. The case study has identified the following two factors as barriers in connection with the tender notice;

- The grace period between the tender publication to the submission deadline for pre-qualification.
- The requirement for joint and several liability in connection with the establishment of the consortium.

The grace period between the publication of the tender notice to the submission deadline for pre-qualification is, as described in chapter7, an additional framework condition barrier, which makes it difficult for Wind People to organise the project. It appears as if no considerations have been made relating to the fact that not all tenderers will be able to stand alone and therefore need to form a consortium or a company, which is a time-consuming process. It can be argued that potential tenderers will know in advance that a tender is coming up, and therefore they may well begin to establish cooperations prior to the publication of the tender notice and thus make the time limit less of a barrier. It should be noted, however, that potential tenderers do not know in advance the requirements they need to meet in connection with the tender, which is why they will have difficulty finding the right cooperation partners until the conditions are publicly known. Thus it can be argued that the tender documents with the current time limit between the publication of the tender notice and the pre-qualification deadline are a barrier to non-profit organisations, if they are to organise a popular tender.

The second factor, as the case study shows, is the challenge of the Danish Energy Authority's requirement for joint and several liability if a consortium is established to tender for the nearshore wind turbines. The case study shows that Wind People did not succeed in locating businesses with an annual turnover of 4 billion DKK willing to engage in a consortium with a limited partnership where Wind People would be financially responsible, and where there is joint and several liability.

It is not only Wind People who views the joint liability as a problem in relation to the tender. In its analysis prepared for the Danish Energy Authority, Deloitte points out that the requirement of joint and several liability can have an impact on who can tender, since some actors will not or cannot go into a consortium with joint and several liability. This applies for municipalities and financial institutions.(Deloitte, 2013) .

The requirement for joint and several liability in connection with the establishment of a consortium creates contract security for the Danish Energy Agency because even if one of the consortium partners were to go bankrupt, the contract will still be completed.

In relation to syndicates, the requirement can, however, be a hindrance because the financially strong syndicate partners will run a greater risk, if they enter into cooperation with less financially strong partners. At the same time, there is uncertainty about which subsequent demands the Danish Energy Agency will be able to make to the syndicate.

8.2 External factors

The case study has shown it a complex process to enter popular projects into new markets, and the complexities do not only relate to framework conditions. The problem must be seen as an interaction between the guidelines and the market structure as a whole.

Although the current regulatory framework makes it difficult for non-profit organisations to enter the market, and almost impossible if a 100 % popular project is desired, the case study shows that there are also a several external factors, which greatly influence non-profit opportunities. This section highlights and analyses the external factors identified through the case study.

8.2.1 Mutual power among competitors

The case study with Wind People shows that the competing industry stakeholders have an internal influence on each other's possibilities to tender in a given invitation. The internal influence between competitors is reflected when Wind People tries to find advisors, consultants and suppliers. Several of the industry stakeholders that Wind People contacts have already made agreements with a competitor, or have another close affiliation with the big industry actors, meaning that there will be conflicts of interest, if they accept the task from Wind People. This may indicate that several of Wind People's competitors have been active and engaging from the time they knew that the tender was coming up, and thus have found advisors to help organise a tender for nearshore wind turbines.

The clearest example of competitors' mutual power over one another is in relation to the turbine suppliers. There are only two turbine manufacturers in Denmark with type-approved offshore wind turbines, Vestas and Siemens Wind Power. Therefore tenderers are relatively dependent on entering into agreements with these, as it is time-consuming to get external manufacturers approved. The large industry actors can cut off other competitors from the turbine suppliers by entering into exclusive agreements with Siemens Wind Power and Vestas. Eventually, this can lead to a potential tenderer being forced to cancel its project.

The same thing can become evident in relation to the consulting engineering companies, legal advisers, etc. that competitors can have that great an impact on one another and the organisation of each others' projects is likely due to a relatively small industry in Denmark. There are struggles for a limited number of advisors and consultants. The established actors can thus to a large extent determine which actors can enter the market. It can be presumed that the established market actors, primarily characterised by large energy

companies, do not want a change in framework conditions to get greater competition in tender projects. Such a change may impact on the technology element, profit - as new actors can help to push prices, see the theoretical framework chapter0.

8.2.2 The new unknown actor (the non-profit organisation)

Perhaps the greatest barrier expressed through Wind People's attempt to organise a tender for the 350 MW nearshore wind turbines, is the novelty in non-profit organisations tendering and with popular projects. Such a composition has not previously been seen in tenders of this size within the Danish industry.

There are several indications that the market is not ready for popular projects to be included in the market for nearshore and offshore wind turbines in Denmark. First of all, the framework conditions do not take into account that popular projects could occur - a notion supported by Deloitte's preceding analysis carried out for the Danish Energy Agency. In this analysis, five groups of stakeholders were analysed to determine how the contract requirements should be designed if the various groups of stakeholders should be able to tender. In Deloitte's analyses neither non-profit organisations nor popular projects are mentioned. This indicates that these are not considered potential tenderers prior to the preparation of the tender notice for the nearshore wind turbines. At the same time Wind People's dialogue with the Danish Energy Agency indicates that the civil service either do not want to or do not know how to handle a popular project tender. This is seen, for example, through Lea Vangstrup's random encounter with an employee from the Danish Energy Agency, and through the handling of the case by both the Danish Energy Agency and the ministerial office when Wind People approaches the two authorities in order to amend the pre-qualification requirements and extend the application deadline. Initially, the Danish Energy Agency and the ministerial office are responsive to Wind People's inquiries, but they subsequently appear dismissive. Whether this behaviour is due to an internal or external influence, or whether it is due to uncertainty associated with new market entrants can be difficult to determine on the basis of this study.

Since Wind People wants to organise a popular project the size of the tender for nearshore wind turbines, Wind People is including partners who have not previously acted in the market for offshore wind turbines, or in some cases not acted in the energy market at all before. This means that it is perhaps the first time, they are introduced to projects like these, and therefore they do not fully know the consequences associated with entering into these projects. This may help to explain why Wind People failed to find a company to join the project. Companies are reluctant to engage in projects outside their core business, where they do not know the rules of the game and at the same time they have to agree to joint and several liability in a project where they will be the largest financial partner.

The same applies for some of the banks Wind People contacts. Several of the Danish banks believe they are too small to get involved in the project, and at the same time they have no experience with offshore wind and do not want to attempt this area at present time.

8.3 Which factors need to be changed in order for non-profit organisations to enter the market

There are indications that not only the framework conditions pose as barrier to non-profit organisations and their ability to tender in projects such as the one with the nearshore wind turbines. The analysis of the framework conditions and Wind People's process in relation to Wind & Welfare, indicates that a major challenge is the fact that the market has not previously seen such projects. Therefore an introduction of

non-profit organisations with popular projects means that the technology "expansion of offshore and nearshore wind turbines in Denmark" must be reevaluated for popular projects to be accepted.

As described in the theoretical framework, a change of at least one of the technology elements will lead to a change of technology(Hvelplund, 2005). The case study shows how such a change of “ expansion of offshore and nearshore wind turbines in Denmark” is slowly starting to happen, and how Wind People pushes this process. At the same time, the case study also shows that there are elements that need changing to make it possible for non-profit organisations to tender with popular projects in connection with tenders of this magnitude. See Figure 7, where the technological elements associated with the expansion of offshore and nearshore wind turbines in Denmark are shown.

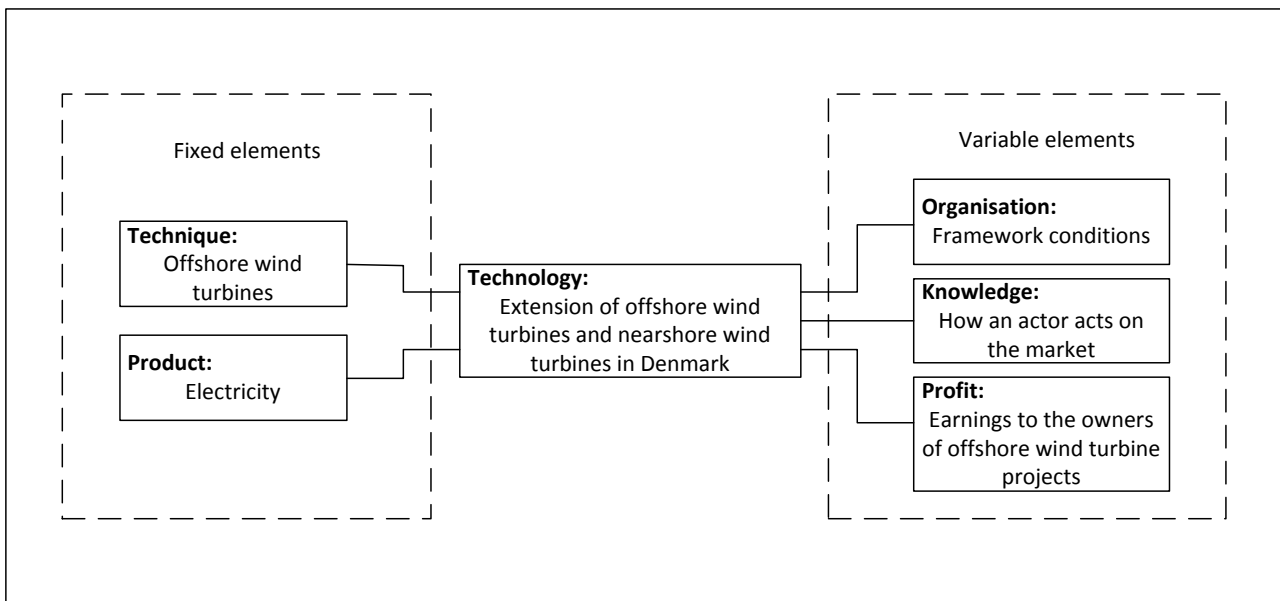


Figure 7 Illustration of "expansion of offshore and nearshore wind turbines in Denmark" as technology, as well as the five associated technological elements. (Own illustration).

Framework conditions do not allow for 100% popular projects because revenue requirements, deadlines and the request for joint and several liability in a consortium are barriers. From the political side there should therefore be a final resolution on whether there is desire for 100% popular projects to be included in the market and based on that decision the Danish Energy Agency can act accordingly to the achieve the political objectives.

This will mean a break with the technocratic-institutional approach that characterises the expansion of offshore and nearshore wind turbines in Denmark today, where the tendency points towards viewing these tenders as "Big Business". This means that the major market players to a large extent are favoured. There is a need for political recognition of the need for new market entrants, and an accept that the profit element will thus be amended in line with increased competition and new entrants with different profit needs.

Before this can happen, it is essential that there is a general change in the perception of non-profit organisations as market actors. The stakeholder analysis shows that respect around the organisation as an actor has significant impact on the possibilities for finding collaborators, but also suppliers, consultants and advisors.

Through the process relating to the pre-qualification and the subsequent complaint, the case study shows that Wind People has come to touch upon technology elements of knowledge and organisation, and as a result the profit derived element a is also affected. Wind People uses the market knowledge acquired through the pre-qualification attempt to subsequently try to influence politicians to let the tender be repeated. Wind People achieves no settlement in the complaint proceedings and the complaint is not sustained. However, two political parties choose to submit a draft resolution to the national parliament of Denmark aimed at ensuring popular projects' access to future tenders. Thus, even though Wind People fails to finish the Wind and Welfare project and win the tender for 350MW nearshore wind turbines, the innovative project nevertheless helped to initiate a change in the technology.

It is therefore primarily the knowledge element Wind People touches in connection with the case, which is also apparent from the analysis in chapter 7 of Wind People's progress through the process.

9 Discussion and recommendations

This chapter contains a discussion of the results obtained through the report analyses. The results are discussed with the theoretical framework relating to the technology development's sub-elements in mind. The aim is to introduce recommendations on how to improve tender possibilities for non-profit organisations with popular projects, when offshore and nearshore wind turbines are put out to tender in Denmark.

The analysis of Wind People's process with Wind & Welfare identifies various barriers and challenges, which have had great impact on the project's ability to pre-qualify for the tender. Barriers and challenges can be divided into two categories i.e. framework conditions and other barriers.

If the analyses of the Wind & Welfare process is put against the theoretical framework where Wind & Welfare is defined as an innovation that is helping to change the technology " expansion of offshore and nearshore wind turbines in Denmark", it appears that Wind & Welfare affects the elements of Knowledge, Organisation, and Profit.

9.1 Framework conditions

The analysis of non-profit organisations' opportunities to tender with popular projects in supply of nearshore wind turbines in Denmark, shows that under the current framework conditions it is not possible for a non-profit organisation to organise a 100% popular project that can meet the pre-qualification requirements. At the same time, however, the case study indicates that it is probably not impossible for non-profit organisations to create a partially popular project, if they can be part of a consortium with one or more major actors, who can meet the current requirements in the tender notice.

Compared to a 100% popular project, there are three main barriers that clearly stand out:

- The relatively short grace period between the tender publication to the submission deadline for pre-qualification.
- The pre-qualification requirement for an average turnover of 4 billion DKK.
- The requirement that all partners in a consortium agree to joint and several liability for the project.

Some may wonder, whether the Danish Energy Agency's choices concerning pre-qualification criteria are rooted in the way the market for offshore wind turbines operates. The market has been characterised by minimal competition and few actors, which may indicate that a political decision has been made about a desirable direction for the market. This is in line with the technocratic-institutional market approach, which is expected through the theoretical framework where the power is primarily given to the already established companies.

The Danish Energy Agency's choice of revenue requirement as a pre-qualification requirement in connection with the tender may indicate that the Danish Energy Agency deliberately wants to favour already established market players. It can be argued that the Danish Energy Agency, on the basis of Deloitte's analysis, has had the opportunity to assess where to set the bar for the pre-qualification requirements to ensure the best opportunities for specific actors. In the analysis, Deloitte has drawn up lists of stakeholder groups and certain actors, a list which shows what each actor can accommodate.

The revenue requirement is the requirement that clearly excludes a popular project from pre-qualification in connection with tenders like this. This is due to the fact that a popular tender is organised differently

than tenders organised by traditional large energy companies. A popular tender organised by a non-profit organisation will not be able to produce a turnover, as this type of organisation does not make a living from doing business. This does not mean, however, that the organisation may not have the financial means to carry out the tender. In the case study, the project would be financed through the sale of shares to Danish consumers, who will then enter into a limited partnership created for this purpose. Thus, Wind People would raise the necessary capital to carry out the project. This way of organising the tender means, however, that the project cannot meet the revenue requirement, because the limited partnership will be newly established and not have a turnover. Today, a 100% popular tender is thus excluded under the framework conditions for the supply of the nearshore wind turbines.

The revenue requirement is the criterion that has received most attention in the technical dialogue prior to the preparation of the tender notice and subsequently in the media. In the technical dialogue, the majority of the potential tenderers call for a relaxation of this requirement, and instead of revenue requirement place greater focus on solvency and corporate rating. Additionally, after the publication of the tender notice, the news site 'Politikken' writes that e.g. Hofer, Danish Energy and the wind turbine industry criticise the revenue requirement, as they believe that it limits the application field.(Andersen, 2015b).

In the tender notice, the Danish Energy Agency sets the revenue requirement at 4 billion DKK, which is significantly below the possible level. Thus, it can be argued that the Danish Energy Agency has been working to pave the way for more applicants. Furthermore, in relation to the second pre-qualification requirement concerning an equity at 20%, the Danish Energy Agency has created a differentiation of the claim and prepared a special requirement for financial institutions where these are evaluated based on a credit rating, because they will not be able to meet an equity ratio of 20%. The Danish Energy Agency takes into account that there is a group of potential tenderers who operate differently and special account should be taken. One could call into question the extent to which the Danish Energy Agency has differentiated requirements in order to create greater competition in the tender, and if so, what sort of competition. There are indications that the Danish Energy Agency has simply paved the way for greater competition within its technocratic market approach, and thus opened up for more actors within the same group of major privatised players, while municipalities and the more popular actors are still excluded from the tender.

As non-profit organisations are also actors of a more popular nature who do not operate on an equal footing with large companies, it can be argued that the requirements should either be drawn up in such a way that all stakeholders can meet the same requirements, or specific requirements should be prepared for groups who fall outside the "normal" business structure.

Prior to its meeting with the Danish Energy Agency on 26th of May 2015, as mentioned in the chapter 5.2.2, Wind People submits a proposal to the Danish Energy Agency on how the agency could change the pre-qualification criteria to provide opportunity for non-profit organisations and popular tenders to come into consideration. The Danish Energy Agency rejects Wind People by stating that the proposals do not meet the principle of equality. The Danish Energy Agency may be right that a special concern for certain groups of stakeholders will violate the principle of equality. Instead criteria must be set which take into account the different groups of stakeholders.

The argumentation by the Danish Energy Authority may be questioned, however, because the tender notice sets special requirements for financial institutions, as these cannot meet the same requirements as

other businesses. When the Danish Energy Agency is willing to set special requirements for some stakeholder groups, why not for others? This is a major issue, as it can lead to speculations on whether or not some stakeholder groups are prioritised above others in connection with the tender. In the EU guidelines on state aid for environmental protection and energy, it is evident that the tender notice must be non-discriminatory, clear and transparent.(EUROPA-KOMMISSIONEN, 2014). This must read as equal opportunity to tender for all potential tenders. The reason why there still seems to be this limitation in relation to who can tender, may be found in the fact that the popular and public constructions are outside the Danish Energy Agency's perception of a governmental tender for nearshore wind turbines. Therefore the Danish Energy Agency is not aware that these constructions exist.

It can thus be argued that because the non-profit organisations and popular projects have different organisational structures, the Danish Energy Agency, should, according to the EU guidelines, take this into account in the same way as it has taken into account the financial institutions.

Wind People arrived at the meeting with the Danish Energy Agency on the 26th of May with a new amendment proposal to the pre-qualification criteria. In this proposal the financial requirements for tenderers are formulated under a requirement which is open to several stakeholder groups at the same time and therefore this can be described as non-discriminating. In Wind People's new proposal, the revenue requirement is set in such a way that the tenderer must either meet the revenue requirements, or provide adequate equity along with an Equity to Debt ratio of at least 20% .(Vangstrup, 2015f). The Danish Energy Agency does not completely reject this new proposal from Wind People, but points out that it is presented too late to be taken into account for this tender. It may be considered in future tenders.

Wind People still includes the revenue requirement in its proposal, but presents an alternative for tenderers with an organisational structure that prevents the organisation from meeting the revenue requirement. Wind People thus opens a path for more potential stakeholder groups. However, it may be further questioned whether the use of revenue requirement is even an appropriate criterion, as this does not necessarily say anything about whether or not a company is able to economically honour the contract.

An example, as Wind People highlights several times throughout the process, is OW Bunker's bankruptcy. Eight months prior to its bankruptcy, OW Bunker had a 14 billion turnover and an equity ratio of 32%. The bankruptcy is, among other factors, because OW Bunker has made almost zero profit from its turnover through a number of years.(Wind People, 2015c). Thus revenue requirements say nothing about how financially strong a company is in relation to completing the contract. This has also been confirmed by one of the Danish banks. In a letter to Wind People the bank writes that a company with a large turnover can still run with deficit, and that revenue is not a sign that the company has a good cash flow.(Vangstrup, 2015f).

Therefore, it is debatable whether or not Wind People's suggestion that a tenderer must have adequate equity along with an equity ratio at minimum 20% is a better and more secure criterion in relation to assessing tenderers' capacity to honour the contract.

In order to make it possible for new actors such as Wind People to enter the market for offshore wind turbines in Denmark, it is necessary that the technocratic-institutional market approach is broken, and, as described in the theoretical framework that a path is laid for a more innovative democratic approach allowing new actors and market development.

It can be argued that Wind People helps to spark this change in market perception with Wind & Welfare. Through the process, several actors have become aware of the benefits of popular projects, but the major indication of this change is the introduction of politicians as advocates for a change in the way tender documents are formulated.

As a result of its dialogue with Wind People and the ruling that Wind People gets the complaint against the Danish Energy Agency dismissed, the Alternative and Liberal Alliance choose to submit a resolution in the national parliament of Denmark on the 4th of December, about "strengthening the competition and financial bid bond at governmental tenders for nearshore wind turbines".

The resolution, which is described in chapter 5.2.4, does not set specific requirements on how the parties believe pre-qualification requirements must be designed in tender notices. It focuses on the government making sure that future requirements do not exclude certain organisational forms, and that a minimum of five pre-qualified tenderers must be pursued in order to ensure competition.

If the resolution is passed by the parliament, it is a major victory for Wind People and non-profit organisations' opportunities in future tenders for offshore wind turbines in Denmark. There is a need for such a resolution to be politically adopted, since the popular projects not only increase the acceptance of the nearshore wind turbines among the population, it also has some positive societal consequences to keep the ownership in Denmark, e.g. the return from turbines remains in Denmark, and the popular projects help to push down the electricity prices for the Danish consumers.

9.2 Other barriers

Other barriers identified in connection with the case study can be divided into three categories, which are dealt with separately below. The three categories are: The market, internal factors at the non-profit organisation and other circumstances.

9.2.1 Limited market size and transparency

The study of Wind People's process shows that it is not only the framework conditions posing a barrier for non-profit market entry. The case study has shown a number of specific challenges not directly related to the tender notice and requirements. Challenges that are perhaps more due to the fact that popular projects are new (an innovation) in connection with tenders for offshore wind turbine projects of this size, and that non-profit organisations have not previously operated in this market.

One of the challenges that has come to light in the case study is invisible actors in the form of market competitors, which turns out to have a relatively large impact on Wind People's opportunities to enter the market. In the theoretical framework there is an assumption that the large actors have an impact on the tender through lobbying with politicians and the Danish Energy Agency. Through the process, however, it turns out that competitors also impact on other actors' opportunities to enter the market.

The offshore wind turbine market in Denmark is a relatively small and already established market, as far as actors concern. As described earlier, there are a few large actors who have already set up cooperation with several advisors and turbine suppliers. The case study shows that these established actors can have a big impact on new market entrants. They make it difficult or almost impossible for new entrants to organise a project, as the consulting engineers, financial institutions, law firms and turbine suppliers have already established collaborations with the large and already established competitors in one way or another. This

means that they will have conflicts of interest, if they enter into cooperation with a new actor operating in the same market as their current customers.

So by cutting off the possibility to get consultancy support, the large competing actors can effectively block new actors even before they really get on the field. In the present case, this meant that Wind People, as a new small actor, has had to invest a great amount of time and effort to find consultants, advisors and turbine suppliers that were independent and believed that a non-profit organisation with a popular project could enter the market. Here, the short application deadline for pre-qualification has probably acted as a further barrier to Wind People.

The belief in Wind People and its popular project has also proved to be a barrier in relation to the market. Several times, Wind People has been met with an unexpected scepticism among consultants and suppliers. Among other, this can be seen in an inquiry made to the consulting engineers, Niras and some of the financial institutions - as described in the stakeholder analysis.

This scepticism can be due to several factors, and based on the analyses in this report no conclusions can be drawn as to why Wind People encounters this scepticism several places. However, some of the possible reasons can be pointed out. It can be assumed that Wind People's position as a new market entrant with a new organisational project approach, impact on how the organisation will be viewed in the industry. Wind People brings something new where advisors have no previous experience, and therefore might not know how to relate to such a project. At the same time, there is a perception that non-profit organisations do not have sufficient financial resources at hand, and thus consultants and suppliers may feel insecure in relation to the completion of the project.

The lack of faith in Wind People's financial resources in relation to completion of the project, is particularly indicated through the dialogue with the engineering consultancy Niras, who at the outset clearly does not believe in Wind People's abilities to complete the project.

9.2.2 Access to wind turbine manufacturers

Another issue that has proved a challenge to Wind People in connection with organising the project, is the possibility of finding turbine suppliers. This challenge relates to the problem of internal power among competitors and the ability to obstruct access to advisors etc.. The specific problem with turbine suppliers is that Denmark has only two turbine suppliers with type-approved offshore wind turbines, which means there is not much competition.

The fact that there are only the two turbine manufacturers with type approved turbines in Denmark, means that it can be difficult for new entrants to provide turbines for their projects, because Siemens Wind Power and Vestas enter into exclusive agreements with competitors. The alternative is that the new market entrants find foreign turbine manufacturers that must have their offshore wind turbines approved in Denmark before they can deliver turbines for the Danish market.

In connection with the Wind & Welfare project, Wind People examines how long it will take to get a wind turbine manufacturer approved. It can take anywhere from weeks to years. It can be questioned, why it needs be so hard to introduce new turbine manufacturers to the Danish market, since some of the manufacturers are already using components known in Denmark. This is the case for e.g. Envision, a company

that Wind People is in contact with as a potential supplier to Wind & Welfare. It can be further argued that there will be a societal loss for Denmark if tenderers are forced to find turbine suppliers outside Denmark.

If the system would allow for more turbine manufacturers to get their turbines approved for the Danish market, this would probably foster greater competition, which, ultimately, can help lower electricity prices for consumers. At the same time, it will be easier for new entrants to get contracts for turbine supply in place without having to meet the obstacle of exclusive agreements, which precludes them from entering the market.

9.2.3 Internal factors in the non-profit organisation

The case study shows that there are some internal circumstances within Wind People, which impact on its ability to submit a popular tender for the nearshore wind turbines under the present framework conditions.

One of the factors which may be important in relation to non-profit organisations' choices, is their size compared to competitors. Where large companies have a large employee capacity with expertise within the various aspects of the project, Wind People as a small non-profit organisation has only a few employees primarily driven by their passion for the field. As a result, the large workload associated with project organisation in non-profit organisations is placed with the individual employees. Thus, the employees experience a great amount of pressure in connection with the work, and therefore their passion is essential for the project to succeed.

One of the pressure aspects that employees at non-profit organisations face, contrary to the employees at larger organisations, is the economic aspect. Non-profit organisations are dependent on external funding and cannot be sure that they can find new funding, when existing ones terminate. Consequently, non-profit organisations are limited in the sense that employees are only guaranteed salary during the funded period. After that, they must find new funding, work for free or shut down the project.

In the case study, Wind People achieves funding for 2 million DKK to organise the project. These funds go to salaries for two project employees, purchase of external competences in the form of consulting engineers, attorneys and communication consultants. During the process, Ærø Fonden, which is responsible for the funding, chooses to allocate more funds to the project, and thereby make Wind People able to raise the complaint against the Danish Energy Agency.

Because of their dependence on external funding in order to be able to carry out the project, non-profit organisations have a clear limitation in relation to the majority of other market stakeholders.

Although Wind People, to a certain extent, has access to financial resources during the process, the organisation is particularly dependent on its professional networks during the complaint proceedings against the Danish Energy Agency, where it can only afford the salaries to its own staff working on the case. In connection with the organisation's complaint against the Danish Energy Agency, Wind People received legal advice from a network association, who decided to provide this advice for free. If this person had not done this, Wind People would not likely have had the resources to go through with the complaint. Based on Wind People's process it can be concluded that the organisation has come as far as it has with the project because of its professional skills combined with a certain amount of luck. This has enabled Wind People to utilise its knowledge and make advantageous use of its networks during the process. Therefore, it can be

argued that if there is a political desire to open the market to popular projects, some kind of start-up aid should be initiated to the organisations attempting to organise popular tenders. An example could be support for feasibility studies, etc..

9.2.4 A popular support

One of the elements highlighted as one of the major benefits of popular projects, is the reduction of local resistance against wind turbines. Earlier in the report, it is mentioned that local resistance is experienced from the population in the six locations included in the tender for the nearshore wind turbines.

Wind People does conduct a survey among citizens prior to the organisation of Wind and Welfare, but this is, as described in stakeholder analysis, based on only 11 replies given by local party members from various locations in Denmark. It may be questioned, to what extent this study can be applied to give a true picture of the public's attitude towards a popular project such as Wind & Welfare. This is based on the low number of responses, but also on considerations as to whether or not politically active party members give an actual picture of the attitudes among the general public.

Wind People has also had a professional market analysis prepared by Epinion. This analysis was aimed at more than 1000 respondents, but due to lack of financial resources, this study has never been implemented. It can be argued that Wind People could have enjoyed great advantages by implementing this in-depth study of public interest in investing in the project and thereby own shares corresponding to their electricity consumption. Wind People could probably have used the results of such investigation to substantiate its argumentation in the dialogue with the Danish Energy Agency and politicians about the importance of popular projects, and thus the modification of the pre-qualification requirements.

9.3 Recommendations

Based on the discussion of report findings, this section sets out a number of recommendations to Danish politicians, as well as non-profit organisations that want to enter the market for offshore wind turbines in Denmark.

The recommendations are based on the belief that there is a desire to create wider and greater competition in the market for offshore wind turbines in Denmark, to ensure low electricity prices for consumers.

9.3.1 Recommendations to politicians and the civil service

On the basis of the case study, a number of recommendations can be directed at the Danish politicians and civil service in the form of the Danish Energy Agency. In the Energy Agreement of March 2012, a political objective for the development of nearshore wind turbines is for the tender to create competition and lower electricity prices. The case study of Wind & Welfare shows, however, that the specifications in the tender for the 350 MW nearshore wind turbines delimit a number of actors from the specific tender. The Danish Energy Agency lowers pre-qualification requirements compared to previous tenders, but starting from Deloitte's analysis for the Danish Energy Agency and the lessons learned from the Wind and Welfare case study, it is clear that the path towards more stakeholders has not been paved in this tender. Instead the tender allows for more stakeholders from the same group of larger privatised companies to tender. It is therefore recommended:

- That a clear political statement is made on desires for the offshore and nearshore wind turbine market, and

- To define under which framework greater competition is desired.

If a political desire is that competition is expanded so the widest possible range of actors and stakeholders are given the opportunity to be included in invitations to tender, it is essential to map out which groups have an actual interest in joining. In addition, a study on how the various stakeholders are organised, and what impact this has on their organisation of tenders in connection with invitations to tender. It is therefore recommended:

- To prepare an in-depth analysis on which stakeholders have an interest in tendering for the Danish offshore wind turbine market.
- That in preparation for tender conditions, an analysis is conducted on how the various groups of stakeholders are organisationally structured. Thereby setting the foundation to draw up appropriate pre-qualification requirements.

Specifically, it is apparent from the case study that the revenue requirement is a barrier for a 100% popular project, and therefore this specific pre-qualification requirements should be examined, if there is a political desire for popular projects to have the opportunity to tender on an equal footing with other actors.

- It is recommended that the revenue requirement is not applied as a pre-qualification criterion in the future, as this excludes some potential tenderers organised differently than the "normal" corporate structures.

Through the motion put forward by the Alternative and Liberal Alliance, there is, as mentioned, a political process set in motion with a view to ensuring more equal and open pre-qualification requirements for future tenders. The draft resolution is, at present, not finally dealt with in the Danish national parliament, so the impact of this measure is not yet known.

It is not certain that a relaxation of the pre-qualification requirements alone would mean that the popular projects with local ownership will be given the opportunity to enter the market, as non-profit organisations have different organisational structures than private businesses. It is therefore recommended:

- The establishment of a funding pool where potential tenderers with local ownership can apply in connection with tenders for Danish offshore wind farms, for instance in the form of support for feasibility studies and development of professional networks.

9.3.2 Recommendations for non-profit organisations

On the basis of Wind People's work to organise a tender for the nearshore wind turbines, a number of recommendations can be established for non-profit organisations that want to be included in invitations to tender such as the one with the nearshore wind turbines.

As mentioned previously, tender requirements are set by the Danish Energy Agency, who thus has the ability to point the contract documents in the direction viewed as the most appropriate by the agency itself and politicians. It is therefore essential to establish a good relationship and dialogue between the Danish Energy Agency and the potential tenderers within the offshore wind turbine market. This is especially important for new market entrants, as new actors cannot be sure that the Danish Energy Agency is aware that

a new actor or stakeholder group has an interest in entering the market. For new market entrants it is therefore particularly recommended:

- To start a dialogue with the Danish Energy Agency early and discuss the interest to be included in a potential tender.
- That the contact to the Danish Energy Agency is maintained during the process, so that the agency is continuously aware of the new actor.

Competition among potential tenderers turns out to have a significant impact on opportunities to get agreements with consultants and suppliers, and there is an indication that the major tenderers have been organising the tender even before the publication of the contract notice. Therefore, new market actors are recommended:

- To initiate the organisation of consultants and suppliers as soon as a decision is made to be presented in a tender.

This is probably especially important for new entrants, as the established actors already have strong relationships with industry consultancies, e.g. in the form of cooperation agreements on previous or other projects. Relating to the issue, the case study also shows the importance of a strong professional network, as well as the activation of this. The professional network can for instance be applied to gain access to the various relevant actors and strengthen organisational skills through access to the network's experience. For non-profit organisations wanting to enter the offshore wind turbine market, or other emerging markets, it is therefore recommended:

- To map out the technical network around the organisation prior to the organisation of a project, in order to identify relevant relationships and skills close to the organisation.
- To enable their professional network to get in touch with relevant persons and operators, in connection with the organisation of a tender or project.

Another element, which presumably may have an impact on a non-profit organisation and in particular a popular project, is an in-depth study of the general public's interest in relation to investing in a popular offshore wind turbine project. Wind People has not made such a study among the public in connection with the tender, so there is no conclusion on the impact of such an examination in this report. However, it can be presumed that a large popular support may have some level of significance, when the idea/project has to be sold politically, but also to other partners in the industry. Non-profit organisations are therefore advised:

- To prepare an in-depth study among the Danish population, with the aim of clarifying public interests in relation to engaging in ownership of such a project.
- That the survey results are used to substantiate the importance of popular projects in the political dialogue.

10 Conclusion

The purpose of this report is to examine possibilities in terms of popular projects and the ability to tender in invitations for offshore wind turbines in Denmark today. This is done through answers to the following question:

Is it realistic that non-profit organisations can tender for major nearshore wind turbine projects in Denmark through popular projects under the current framework conditions?

The reply to the main problem definition is made by answering four sub-questions, the first of which reads as follows:

1. What characterises the current framework conditions for the tender for nearshore wind turbine projects in Denmark?

The framework conditions for the tender for the 350 MW nearshore wind turbines in Denmark stem from a political decision in the Energy Agreement of March 2012, on the expansion of the nearshore wind turbines in Denmark. The Danish Energy Agency has, in the light of the political decision, as well as the legal framework for the elaboration of governmental procurement within the renewable energy, drawn up the specifications for the tender for the 350 MW coastal offshore wind turbines.

The legislative framework consists of The Treaty of the Functioning of the European Union, Directive 2014/24/EU of the European Parliament and of the Council on Public Procurement and Repealing Directive 2004/18/EC as well as the "Guidelines on State aid for Environmental Protection and Energy 2014-2020".

In the tender notice, The Danish Energy Agency has outlined a number of criteria that potential tenderers must meet in order to be allowed to join the bidding round. These pre-qualification criteria for the specific tender for nearshore wind turbines are:

- The applicant must present an average turnover of 4 billion DKK over the past three years.
- The applicant must have an equity ratio of 20% or more. For financial institutions, however, they must have a credit rating of BBB- or more (Standard & Poors and Fitch) and/or Baa3 or more (Moody's) or an equivalent rating from another recognised credit rating agency.
- The applicant must have at least one reference to an offshore project with an installed capacity of minimum 30 MW within the last five years.

In addition to the three pre-qualification criteria, there are two other factors that potential tenderers must be able to meet if they are to obtain the pre-qualification in connection with the tender. These are:

- A time limit of three months from the date of publication of the contract notice to the pre-qualification deadline. Meaning three months to organise a tender from the time the general requirements are known.
- A requirement for joint and several liability among collaborators, if a consortium is established in connection with the tender.

The second sub-question answered through the report is:

2. How has the process been for Wind People as an organisation in connection with the project Wind & Welfare?

Wind People's process with Wind & Welfare can be divided into four stages, each of which shows different processes that Wind People has passed through with the attempted pre-qualification and the subsequent complaint against the Danish Energy Agency. The four stages are:

- Wind People's process with the organisation of the Wind & Welfare project
- The tender process up until pre-qualification
- Wind People's complaint against the Danish Energy Agency
- Wind People's attempts to achieve a settlement without going through the complaint case

In relation to the organisation of the Wind & Welfare project, Wind People is working to organise the project and thus ensure that all the necessary elements and actors are represented. First and foremost this involves fundraising. Before that, Wind People cannot not possibly begin to organise the project. Subsequently the process consists of contact to:

- Advisors in the form consulting engineers as well as legal advisors
- Large Danish companies, in order to find partners for a consortium
- Turbine suppliers
- Financial partners, in the form of banks willing to finance the project

In parallel with this course of events, the tender process proceeds up to pre-qualification. In this process, Wind People is involved in the technical dialogue prior to the Danish Energy Agency's preparation and publication of the tender notice and the criteria that potential tenderers must meet in order to pre-qualify for the tender. In addition up until the pre-qualification deadline, Wind People is working for a change of the pre-qualification criteria so that Wind People's popular tender can meet these. Among other things, the attempt to change the criteria occurs via contact to the Ministry, after which Wind People managed to get a meeting with the Danish Energy Agency at the day of the pre-qualification application deadline.

As Wind People cannot pre-qualify in connection with the tender, the organisation chooses to initiate a complaint against the Danish Energy Agency, which is the third course of events in the process.

The fourth course of events is Wind People's attempts to reach a settlement with the Danish Energy Agency without going through with the complaint. At this stage, Wind People is working with different strategies to influence a possible settlement with the Danish Energy Agency. This is done by using the media to focus on Wind People and the issue of exclusion of popular projects in connection with the tender. In addition, Wind People takes part in the People's Political Festival on Bornholm in order to find allies among the political parties. Furthermore, Wind People attempts to engage the chief press officer and energy spokesman from the Liberal Party as well as the Energy, Supply and Climate Committee through an audience.

Wind People's process with Wind & Welfare contains many different interdependent sub-processes and in some cases these processes proceed in parallel.

The third sub-question related to the problem definition is:

3. Which stakeholders are involved in such a process, and how do they act in relation to Wind People and the project Wind & Welfare?

Wind People is in contact with several different stakeholders during the Wind & Welfare process. These stakeholders are illustrated by Figure 8:

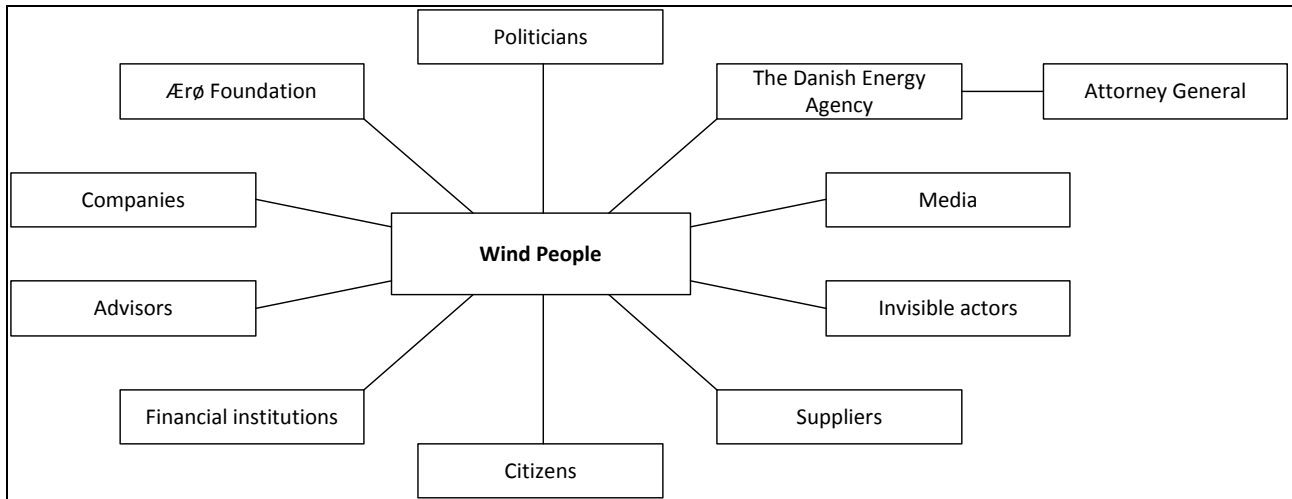


Figure 8: Identified stakeholders which Wind People is in contact with during the Wind & Welfare process. (Own illustration).

There is a big difference in the way individual actors and groups of stakeholders interact towards Wind People. Wind People encounters some level of scepticism about the intentions to tender for the nearshore wind turbines several times during the process. This scepticism is expressed, for instance, when an advisor who has previously agreed to take on Wind People’s project turns out to have accepted a competitor. However, it is not only scepticism Wind People faces. Several actors are in favour of the project, but for one reason or another do not have the opportunity to be included in the project.

Wind People experiences that the Danish Energy Agency, and to some extent also the political side, does not listen to comments, suggestions and arguments put forth. Wind People experiences a positive approach and willingness to listen, but, when it comes down to it, this is just to keep stalling.

In addition, Wind People experiences that there are different relations among actors. Relations which impact on how the individual actors behave towards Wind People. This is very much the stakeholder group referred to as invisible actors. Among other things, the invisible actors, consisting of Wind People's competitors, influence how different advisors may behave towards other actors. The invisible actors can prevent advisors from assuming tasks for certain actors as this may lead to conflicts of interest. The same applies in relation to wind turbine suppliers.

The fourth and last sub-question in connection with the answer to the main problem definition is:

4. How does a non-profit organisation develop through a process of dialogue with decision makers and key stakeholders?

It is evident that Wind People undergoes a development through the Wind & Welfare process. In the initial process, it is evident that Wind People has a belief that the official procedures and lines of authority are followed. For example, at the beginning of the process Wind People believes that the Danish Energy Agency takes the popular project into account, after Wind People informs the Danish Energy Agency that a popular project will be submitted for the tender. The same applies when Wind People caters to companies in order to get them involved in a syndicate for Wind & Welfare. Wind People believes that it can turn to the general staff, who can then push the project through the system to management level and decision makers.

Along the way, Wind People comes to realise that these procedures and lines of authority often do not work as required, and the organisation begins to change its tactics to get its message through. Among other things, Wind People begins to more actively apply its professional network to get in touch with relevant actors and individuals.

It can therefore be argued that Wind People moves through three different phases during the process with Wind & Welfare. Phase one, where Wind People believes that it can achieve its objectives by following the official procedures and lines of authority with the civil service and the different stakeholders, to a realisation that this is often not the case. Then Wind People acquires knowledge on how the system actually works among the individual market actors, and the organisation applies that knowledge to get its message through with individual actors. Wind People is still acquiring knowledge on how the individual actors and the market for offshore wind turbines in Denmark work.

In relation to the main question on whether or not it is realistic for non-profit organisations to tender with popular projects in invitations such as the tender for nearshore wind turbines, it may, on the basis of the report analyses, be concluded that under the current conditions, it is not possible to make a 100% popular tender.

The study shows that it would be theoretically possible for non-profit organisations to tender into the market for offshore wind turbines in Denmark, but that it is not possible if a 100% popular project is desired. The framework conditions rule out a 100% popular project by failing to take into account that not all potential tenderers are structured alike organisationally. Therefore, not everyone can meet the same requirements, and certainly not the requirements set for the tender for the 350 MW nearshore wind turbines.

It can also be further concluded that it is not only the framework conditions, which are crucial for non-profit organisations' opportunities to enter the Danish market for offshore wind turbines. The studies in the report also show that the competing market actors have great influence on each others' opportunities. It is evident that the market for offshore wind turbines is an already established market, dominated by a few large actors who have established cooperation with turbine suppliers, advisors, lawyers, banks and other consultants in the industry, making it difficult for new actors to enter the market. Particularly small actors such as non-profit organisations, largely dependent on external competences in order to be able to organise this size of projects.

If non-profit organisations are to be able to tender with 100% popular projects at future tenders for nearshore and offshore wind turbines in Denmark, there is a need for a political decision on the problematic issues concerning this. With this report, the following recommendations are made to politicians:

- That a clear political statement is made on desires for the offshore and nearshore wind turbine market.
- To define under which framework greater competition is desired.
- To prepare an in-depth analysis on which stakeholders have an interest in tendering for the Danish offshore wind turbine market.
- That in preparation for tender conditions, an analysis is conducted on how the various groups of stakeholders are organisationally structured. Thereby setting the foundation to draw up appropriate pre-qualification requirements.
- It is recommended that the revenue requirement is not applied as a pre-qualification criterion in the future, as this excludes some potential tenderers, organised differently than the "normal" corporate structures.
- The establishment of a funding pool where potential tenderers with local ownership can apply in connection with tenders for Danish offshore wind farms, for instance in the form of support for feasibility studies and development of professional networks.

The report also sets out a number of recommendations for non-profit organisations wanting to enter the market for nearshore and offshore wind turbines. Recommendations for non-profit organisations read as follows:

- To start a dialogue with the Danish Energy Agency early and discuss the interest to be included in a potential tender.
- That the contact to the Danish Energy Agency is maintained during the process, so that the agency is continuously aware of the new actor.
- To initiate the organisation of consultants and suppliers as soon as a decision is made to be presented in a tender.
- To map out the technical network around the organisation prior to the organisation of a project and thereby identify relevant relationships and skills close to the organisation.
- To enable their professional network to get in touch with relevant persons and operators in connection with the organisation of a tender or project.
- To prepare an in-depth study among the Danish population, with the aim of clarifying public interests in relation to engaging in ownership of such a project.
- That the survey results are applied to substantiate the importance of popular projects in the political dialogue.

10.1 Suggestions for further research

This report has been prepared on the basis of in-depth interviews and close contact with the non-profit organisation, Wind People. This is done to identify the non-profit organisation's opportunities to tender for the nearshore wind turbines. It may, however, be argued that this study could profitably be supplemented with research that considers the issue from a broader perspective, with more in depth studies of e.g. the Danish Energy Agency and other market actors' actions and why they act the way they do in relation to the tender.

The potential tenderers' internal competition and the way they influence each others' capabilities should be further explored, as the case study with Wind People indicates that the tenderers, in virtue of their his-

torically built up central position and network in the market, has a great power in relation to who can enter the market.

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