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Appeals case concerning the Monte Grighine project

The regional authorities in Sardinia have unexpectedly resolved to appeal a 14 months old judgment concerning Greentech Energy System A/S' (Greentech's) 98.9 MW wind farm Monte Grighine, which is under construction. The appeal will not act as a stay of execution, and in consultation with its Italian legal advisers Greentech has resolved to continue construction work so that Monte Grighine, as previously announced, can be commissioned around the turn of the year.

Background information

In 2003 and 2004, Greentech obtained all the necessary permissions and approvals to build the Monte Grighine project in the north-western part of Sardinia. One of these approvals was issued by the region's technical department, Genio Civile, which accepted the planned cabling and transformer station. This is a technical approval intended exclusively to ensure that construction work is planned and undertaken pursuant to Italian norms and standards. The approval is – pursuant to Italian legislation – temporary and only applies during the period of construction. When construction is completed, it must be replaced with a final approval of the work performed.

However, in 2005 Genio Civile withdrew its approval – not because of technical issues, but exclusively with reference to landscape and environmental issues regulated in new local legislation, which had been adopted by the regional parliament after the time when the Monte Grighine project had received all the necessary permits.

Against this background, Greentech postponed construction and filed a lawsuit against Genio Civile before the administrative court TAR in Cagliari. In May 2007, the TAR court ruled in favour of Greentech, stating that Genio Civile could not withdraw its approval. According to Greentech's Italian attorneys, the ruling was very clear, emphasising that Genio Civile is not entitled to withdraw the previously issued approval with reference to landscape and environmental issues, because Genio Civile in its capacity as a purely technical authority should only consider whether the project's electrical installations are in accordance with Italian norms and standards.

Based on this unambiguous ruling and the deadlines indicated in the building permit, Greentech last year commenced construction of the Monte Grighine project, whose 43 turbines with a total capacity of 98.9 MW makes it the Company's largest single project to

date. Construction is proceeding according to plan, and erection of the first wind turbines was recently commenced.

However, after one year and 43 days the Region of Sardinia has unexpectedly resolved to appeal the May 2007 ruling to the highest court in the TAR system.

Greentech's Italian legal advisers recently completed their assessment of the appeals case. In a legal opinion, they state that the Region has not presented any new arguments in the case, and the legal advisers therefore assess that it is highly unlikely that the court will rule in favour of the Region. Consequently, as the court is likely to find in favour of Greentech, the Company has decided to continue construction of Monte Grighine.

Further process in the case

It normally takes 3-4 years to process such appeals before the TAR court, but Greentech's Italian attorneys believe that the time may be reduced to 10-12 months in this case. In this context it should be mentioned that Greentech has previously been involved in and won a number of cases before the TAR court in Sardinia, where the present political authorities in the Region are very sceptical when it comes to wind power. This scepticism is not shared by the municipalities and provinces on the island, nor by the national government in Rome.

Because of the appeals case, it will not be possible to draw on the project financing which the Company had negotiated with one of its project funding banks. As a result, Greentech is working with its financial advisers to establish temporary financing to ensure completion of the construction work in spite of the pending appeals case. This funding will be replaced by the committed project financing when the appeals case has been finalised with a favourable outcome for Greentech. Greentech expects to announce the outcome of these investigations in connection with the publication of its half-year financial statements on 29 August.

Greentech's other project financing is unaffected by the above situation.

Greentech has also asked its Italian legal advisers to assess the consequences if, contrary to expectations, Greentech should lose the appeals case and Genio Civile's permission is withdrawn. In that case, the Monte Grighine project would not have all the necessary permits and production would have to cease.

Pursuant to current Italian legislation, the authority to approve electrical installations in a wind turbine facility has meanwhile been transferred from Genio Civile to the relevant province in Sardinia, which in the case of Monte Grighine is Oristano. Accordingly, Greentech would then have to ask the Province of Oristano to re-approve the technical installations, and if there are no technical objections to the installation, the province would, according to the legal opinion, be obliged to issue the permit. For the sake of good order, it should be mentioned that, according to standard practice for Greentech, one of the official Italian power companies has designed the electrical part of the project. The Company's Italian attorneys estimate that any potential production stop at Monte Grighine if Greentech, contrary to expectations, should lose the appeals case would last for a maximum of 220 days until this electrical approval has once again been obtained.

The Board of Directors

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