

National Report of the President of URE 2024

– Summary

The National Report of the President of URE provides an in-depth look at the situation in the Polish electricity and gas markets in 2023, presenting the state of the energy market in Poland and the activities undertaken by the Polish Regulator in 2023.

Legal and regulatory changes

In 2023, an extensive amendment to the Energy Law took place by the Act of 28 July 2023. The Act implements a number of European legal acts in the area of energy into the Polish legal order, including Directive 2019/944.

The Act introduced significant changes to the existing regulations as well as new institutions and new market actors. Due to a number of market-oriented and pro-consumer solutions, the Polish energy market will be more competitive and open to the changes that the energy industry is subject to in the age of transition. The key solutions include:

- active customers,
- aggregators,
- citizen energy communities,
- dynamic price contracts.

Under the new legal provisions, citizen energy communities (CECs) will be authorised to operate across Poland as of August 2024. The main purpose of CECs is to provide environmental, economic or social benefits to their members, shareholders, partners or areas where the CEC will engage in activities. The object of CECs activity may be generation, distribution, sale, consumption, aggregation or storage of energy, as well as the provision of energy efficiency services, charging of electric vehicles or the provision of other energy services to its members or shareholders. At the same time, a customer joining a CEC preserves full consumer rights. The establishment of a legal framework for the operation of CECs is intended to enable electricity final customers to participate directly in the generation and sharing of electricity with other customers. The aim of introducing this solution is to provide affordable electricity to community members and to increase energy efficiency at the household level by reducing electricity consumption and lowering the price of electricity supply. The launch of a CEC requires registration in a list maintained by the President of URE.

As of August 2024, customers will have the right to enter into contracts with dynamic electricity prices with any supplier that serves more than 200,000 customers. The price of energy in such a contract will reflect price fluctuations in the electricity markets, in particular the day-ahead and intraday markets. Only customers with a remote reading meter installed will be able to take advantage of such an offer. Therefore, the entry into force of the dynamic price is closely related to the moment when such meters are installed, and the remote reading systems and the Central Energy Market Information System (CSIRE) become operational. The establishment of these systems will create opportunities for price comparisons and rapid response to changing circumstances. Energy suppliers using dynamic price contracts were obliged to inform customers, in a transparent and understandable manner, about the costs and benefits, as well as the risks associated with such contracts. An obligation was imposed on the regulator to monitor the electricity market situation related to dynamic pricing. The President of URE will also publish annually a report on the market segment where dynamic pricing is applied.

The Act also introduced new rights and obligations for customers and energy companies (among others, the so-called regulatory sandbox), as well as amendments to existing regulations, among others, in the area of licensing, tariffing and last resort supply.

In the area of licensing, the legislator, at the request of the regulator, introduced an additional premise for the granting, modification or withdrawal of a licence, which will be a guarantee of proper performance of the activity covered by the licence. The President of URE will now be able to refuse to grant a licence to an applicant which fails to provide the guarantee of proper performance of the activity covered by the licence. Similarly, the regulator will be able to withdraw the licence or change its scope if it is revealed that the licensee does not give the guarantee of proper performance of the licensed activity.

Once the CSIRE is launched, new rules for last resort supply to electricity customers will be introduced, which will take into account the automated circulation of energy market information between users of the central system. As a result, the procedure for triggering last resort supply will be simplified, while increasing the level of protection and security for customers. The last resort electricity supply contract will be of indefinite duration and will be terminated when the customer enters into a contract with a new energy supplier. At the same time, the price of electricity sold under the last resort supply will be higher than that on the competitive market, which is expected to motivate the final customer to choose a new supplier as soon as possible.

Another major, comprehensive amendment in the reporting year was the amendment of the RES Act by the Act of 17 August 2023. This amendment changed the scope of the subject matter of the Act, introducing regulations for the performance of the business activity of producing biomethane in a RES installation. The mechanisms and instruments supporting the production of electricity from renewable energy sources and agricultural biogas and heat so far included also the production of biomethane in RES installations. In addition, biomethane, heat, cooling, renewable hydrogen, biogas and agricultural biogas were covered by a system of issuing guarantees of origin.

The amendment to the Act provides for the discontinuation of the support system in the form of certificates of origin for agricultural biogas. As a consequence, the provisions of the Act in this respect were repealed and others concerning, among others, this type of support were amended accordingly. New regulations were introduced in the FIT support system (RES installations with a total installed electrical capacity of less than 500 kW) and the FIP support system (RES installations with a total installed electrical capacity of no more than 1 MW) for modernised installations using biogas, hydropower or biomass. New support rules for modernised installations were also introduced into the auction system. Attention should be drawn to the new form of auction, that is, the operating support auction dedicated to entities that have already benefited from the mechanisms provided for in the RES Act and whose support period has already expired. New operating support is also foreseen for RES installations benefiting from support based on the rules of the FIP system. The possibility for generators to benefit from support for modernised units and operational support was made conditional on the issuance of a positive decision by the European Commission on the compatibility of public aid with the internal market.

The amended provisions of the RES Act also include provisions intended to facilitate the activities of energy cooperatives and energy clusters.

The Act also regulates the possibility of cable pooling. It consists in using secured energy transmission capacities, e.g. for a previously established wind power plant, to launch a photovoltaic power plant in the same location (on the same connection). An important point is that the new infrastructure may belong to the same or different investors. In this situation, both investments share energy infrastructure and their operation is more balanced in terms of a generation profile. The amendment provides for cable pooling by the beneficiaries of the auction support scheme and the FIT/FIP schemes, with the proviso that the generator of electricity in the installation planned for connection does not benefit, nor will it benefit, from any mechanism supporting the generation of energy from renewable sources provided for in the RES Act.

In 2023, a set of new rules were prepared that will be crucial for the functioning of the electricity market in the following years. Among such measures, the rules for the operation of the CSIRE and the conditions for balancing are of particular importance.

Given the amendment of the Energy Law of 20 May 2021, one of the main tasks of the Energy Market Information Operator, which is the electricity transmission system operator, is to build and launch the Centralised Energy Market Information System (CSIRE) in which energy market information will be processed. In this respect, on 6 April 2023 the President of URE approved the TNC in the part concerning the manner of operation of the CSIRE and the cooperation of the electricity TSO, acting as the energy market information operator, with electricity system users and other entities obliged or entitled to use the CSIRE (TNC-EMIO). This part of the Code is a key document for the launch of the CSIRE.

As part of the implementation of the second phase of the balancing market reform, the Electricity System Regulation was adopted. The core subject of this regulation includes the rules for the operation of the electricity balancing market. Therefore, on 27 September 2023 the President of URE approved in part the new balancing conditions – respecting the amended regulations – with an effective date of 14 June 2024 (new BCs). In January 2024, the regulator approved the new BCs in the remaining scope, that is, the provisions on the valuation of the operating reserve. For more information on the new BCs, see item 3.1.4. The regulatory change also imposed an obligation on the TSO to align the TNC, against which administrative proceedings were pending before the President of URE in 2023.

On 28 November 2023, the Ordinance of the Minister of Climate and Environment of 23 November 2023 amending the Ordinance on the detailed rules for development and calculation of tariffs and settlements in trade in gaseous fuels was announced. The amendment to the Ordinance introduced, among others, a regulatory account mechanism for companies conducting business activities in the distribution of gaseous fuels, storage of gaseous fuels, liquefaction of natural gas and regasification of liquefied natural gas. The purpose of the introduction of regulatory accounts for energy infrastructure activities in the field of gaseous fuels is, on the one hand, to ensure stable operating conditions for operators (it provides protection against incomplete recovery by the operator of revenues which are supposed to cover justified costs) and, on the other hand, to protect entities ordering infrastructure services from incurring unreasonable costs in a situation where the actual revenue of the operator exceeds the justified costs of operating.

In November 2023 the President of URE published a methodology for determining the justified level of the weighted average cost of capital (WACC) for gas system operators conducting transmission, distribution, storage, liquefaction and regasification of liquefied natural gas, for the period 2024-2028. The paper draws on the latest report prepared by the Council of European Energy Regulators (CEER) entitled "Report on Regulatory Frameworks for European Energy Networks 2022"¹⁾. The methodology offers gas system operators the choice of a method of determining the weighted average cost of capital (WACC): a) in a fixed WACC formula of 7.597 percent for the entire validity period of the methodology or b) in a variable WACC formula based on risk-free rate values published quarterly – by making a declaration by 31 January 2024. What is important is that the method of determining the WACC chosen by the aforementioned deadline (that is, either in the fixed WACC formula or in the variable WACC formula) will be consistently applied until the end of 2028. This means that after 31 January 2024 it is not possible to change the chosen method of determining the WACC (the declaration made).

¹⁾ <https://www.ceer.eu/documents/104400/-/-/2a8f3739-f371-b84f-639e-697903e54acb>

Electricity Market

The volume of domestic gross electricity production in 2023 was lower compared to the previous year, amounting to 163,629 GWh (a decrease of (-)6.58% compared to 2022). During the same period, gross domestic electricity consumption totaled 167,518 GWh, a reduction of (-)3.44% compared to 2022.

In 2023, the share of imports in the national balance of physical electricity flows was 8.5% of total inflows, while exports accounted for 6.3% of electricity outflows. Compared to 2022, the import share increased by 0.5 percentage points, while the export share decreased by (-)2.6 percentage points.

The structure of electricity production in 2023 changed slightly compared to the previous year. The majority of electricity generation still relies on conventional fuels, such as hard coal and lignite. However, a noticeable change is the increased share of generation from renewable energy sources. The share of electricity production from wind sources increased from 10% to 13%, and from other renewable sources from 5% to 8%.

In 2023, the installed capacity in the national power system was 67,770 MW, and the generating capacity was 66,311 MW, representing increases of 12.12% and 11.30%, respectively, compared to 2022. The average annual power demand was 22,825.9 MW, with a maximum demand of 27,325.9 MW, indicating a decrease of 2.41% and an increase of 0.11%, respectively, compared to the previous year.

Among the three largest producers, grouped in capital groups in the examined 2023, were PGE Polska Grupa Energetyczna S.A., ENEA S.A., and Orlen S.A. Producers in the TAURON Polska Energia S.A. capital group ranked fourth for the first time in many years. In terms of the amount of electricity fed into the grid, in 2023, as in 2022, the three largest producers were those grouped in the aforementioned three largest capital groups (these producers accounted for nearly two-thirds of the electricity production in the country).

Concentration indicators, based on installed capacity and energy fed into the grid, continued their downward trend in 2023 (both decreased by nearly 16% in 2023 compared to 2022). The decrease in both concentration indicators in 2023 compared to 2022 was mainly due to the increase in electricity production from renewable energy sources, small and distributed, in the national energy production mix.

The abolition of the exchange obligation in December 2022 significantly reduced market liquidity in forward contracts, particularly annual BASE_Y and PEAK_Y contracts, which are the primary contracts for hedging risk in the retail market. According to the law, major "market players," i.e., producers and trading companies, contracted over 70% of their sales (for producers) and over 70% of planned purchases (trading companies securing the retail portfolio) through bilateral contracts within their own capital groups, limiting access to this energy for external customers.

A decrease in electricity prices on the forward market conducted by TGE S.A. was observed, reflected in the year-on-year increase in prices of BASE_Y forward contracts (annual contract for the next year). The volume-weighted average transaction price of the BASE_Y-24 contract throughout 2023 was PLN 642.19/MWh, whereas the previous year's volume-weighted average transaction price of the BASE_Y-23 contracts was PLN 1,110.04/MWh. At the same time, the average monthly price of BASE_Y-24 contracts concluded in December 2023 was PLN 491.72/MWh, while the average monthly price of analogous BASE_Y-23 contracts concluded in December 2022 was PLN 1,068.63/MWh. This represents a 54% decrease in the price of these contracts.

In 2023, out of over 17.5 million consumers in the retail market (nearly 19.1 million points of electricity consumption), approximately 86.8% were consumers purchasing electricity for household use (data based on a survey conducted by the President of URE). The remaining group of end-users includes those in tariff groups A, B, and C. Groups A and B consist of consumers supplied from high and medium voltage networks and are referred to as industrial consumers, while Group C includes consumers connected to low voltage networks, using electricity for business purposes, referred to as business consumers.

In the electricity market, there were five large Distribution System Operators (DSOs) subject to legal unbundling, whose networks are directly connected to the transmission network (referred to as OSDp),

and 186 designated DSOs not subject to legal unbundling, whose networks do not have direct connections to the transmission network (referred to as OSDn).

On the supply side of the retail electricity market, there are energy suppliers offering electricity to consumers. This group includes six suppliers operating within capital groups, together with distribution system operators, but as separate legal entities. The second group consists of suppliers who are also distribution system operators (186 in 2023), while the third group includes independent electricity suppliers—entities not involved in distribution activities within Poland.

The average electricity price for all consumer groups fluctuated throughout the year, settling below the level of the price in the fourth quarter of 2022 in the fourth quarter of 2023 (a decrease of nearly 9%), while the average increase in the distribution fee quarter to quarter was just over 25%. An increase in electricity prices compared to the fourth quarter of 2023 versus the fourth quarter of 2022 was observed in tariff groups A (6.1%) and B (8.3%). The most significant decrease was observed in tariff group C (just over 30%), where the electricity price in the fourth quarter was very close to the price for other institutional consumer groups. In groups A, B, and C, the highest increases in the distribution fee were recorded (values: 55.2%, 43.8%, and 45.9%, respectively). The price of electricity for household consumers decreased by nearly 6%, and this result, despite the freezing of prices at the 2022 level, is attributed to an increase in the number of consumers benefiting from frozen electricity prices (due to regulatory changes and individual consumer decisions). The distribution fee for this group of consumers increased by 9.6%.

In 2023, the number of consumers exercising the right to choose a supplier increased by 3.15% compared to 2022, with the change in the institutional consumer group (tariff groups A, B, and C) being 5.88%, while in tariff group G (including households), it was an increase of 2.25%.

Gas Market

In 2023, the total gas purchases from abroad for the needs of Polish consumers amounted to 159.7 TWh, supplemented by domestic gas production totaling 38.4 TWh. The overall gas supply from abroad included both imports and intra-community acquisitions. The change in natural gas reserves was -2.4 TWh. The Polish transmission system transported 219.7 TWh of high-methane gas and 6.8 TWh of nitrogen-rich gas.

By the end of 2023, there were 178 entities holding licenses for trading in gaseous fuels, compared to 176 at the end of 2022. Of these, 86 companies actively participated in the natural gas market. Non-Orlen Group gas trading enterprises acquired 71.2 TWh of natural gas.

The trading and purchasing of gaseous fuels in the Polish wholesale market primarily took place on the exchange operated by TGE S.A. In 2023, TGE S.A. managed the following gas trading markets: the Intraday Market (RDBg), the Day-Ahead Market (RDNg), and the Forward Market for Natural Gas Products (RTPG) of the Organized Trading Platform (OTF).

Throughout 2023, as a result of contracts executed on TGE S.A., a total of 155,860,538 MWh of natural gas was delivered at an average price of 384.11 PLN/MWh. This included 14,947,473 MWh on the RDNg market at an average price of 215.25 PLN/MWh, 3,370,279 MWh on the RDBg market at an average price of 211.66 PLN/MWh, and 137,542,786 MWh on the forward market at an average price of 406.69 PLN/MWh.

The President of URE also monitored transactions conducted at the virtual point on the over-the-counter (OTC) market. As a result of contracts executed at this point on the OTC market, regardless of the contract date, 20.9 TWh of natural gas was delivered at a weighted annual average price of 312.55 PLN/MWh.

By the end of 2023, 121 suppliers had contracts with gas transmission system operator (TSO) allowing them to sell on the retail market, a decrease of 3 compared to 2022. In the distribution network area (PSG Sp. z o.o.), the number of contracts stood at 47, down by 10 from 2022.

As of December 31, 2023, there were 50 gas distribution system operators active in the natural gas market.

Data obtained by the President of URE indicates that in 2023, 97.65% of consumers purchased natural gas at prices resulting from tariffs approved by the regulator.

The retail market for natural gas (both high-methane and nitrogen-rich) shows strong concentration. The share of entities from the Orlen Group in the sale of gas to consumers connected to distribution networks was 90.68% (90.4% for high-methane gas and 93.7% for nitrogen-rich gas), which increased by 1.68% compared to the previous year. The Herfindahl-Hirschman Index for the high-methane natural gas market in 2023 was 9,528 based on the number of consumers and 7,525 based on the volume of gas sold.

On December 21, 2022, provisions from the Act of December 15, 2022 came into force, which maintained the gas price freeze mechanism introduced in 2022 for consumers covered by tariffs approved by the President of URE.

In 2023, gas suppliers continued to be obligated to submit tariffs for approval by the President of URE for consumers specified in Article 62b of the Energy Law, including households and entities performing public utility tasks. The removal of this obligation for the specified consumer groups has been postponed to 2028.

By the end of 2023, the cumulative number of supplier changes was 298,722. This means that during 2023, 6,133 entities joined the group of consumers who changed their supplier. This number represents approximately 68.60% of the equivalent number from the previous year (8,940 consumers) and less than 0.1% of the total number of consumers.