

# Legislative works undertaken to achieve electricity market reforms



02 November 2020 | Contributed by Kubas Kos Gałkowski

Energy & Natural Resources, Poland

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## Introduction

On 1 January 2020 EU Regulation 2019/943 entered into force, on which the new structure of the EU electricity market is based. The new model is the result of the Clean Energy for all Europeans package.

The regulation establishes comprehensive rules for a modern electricity market and applies to:

- electricity market participants;
- transmission and network operators;
- distribution network operators; and
- electricity generators.

Pursuant to Article 20(3) *et seq* of the regulation, some EU countries – including Poland – had to prepare a specific roadmap for the implementation of the new electricity market's principles, which could be adapted to accommodate the social and economic realities of the given country. Poland's implementation plans for the electricity market reforms were submitted to the European Commission for its opinion. This article summarises the actions taken by Poland to adapt its national legal environment to the requirements of the Clean Energy for all Europeans package.

## Implementation plan for electricity market reforms

The European Commission published a draft of the Polish implementation plan and launched public consultations thereon. Following the consultations, it issued an opinion presenting its recommendations. The agreed implementation plan, which takes the European Commission's recommendations into account, was adopted on 14 May 2020. The supplemented document contains a plan to reform the electricity market with respect to:

- the balancing market;
- demand side response (DSR);
- the retail market;
- network development and cross-border interconnections; and

- allocation limits.

The following actions will be taken.

### ***Balancing market reforms***

The balancing market will be reformed through, among other things, cost-effective and market-based purchases of balancing capacity. Prices on the balancing market will be determined as a price cap set out in the Electricity Balancing Guideline (EBGL), considering the necessary adjustments to the pricing rules in relation to the European balancing platforms. This will not affect the possibility of price diversification in the Polish market zone depending on location through the application of a solution based on the full transmission network model in the price formation process.

### ***Updating price caps applied on balancing market***

This will be implemented as of the date on which technical price caps apply according to the accepted proposal based on the EBGL.

### ***Changing integrated planning process offers***

All market participants will be able to submit or change their offers on the wholesale market, to the extent possible, at least until the intraday cross-zonal gate is closed, in accordance with the EBGL. This is with a view to monitoring participants for potential market abuse.

### ***Administrative scarcity pricing mechanism***

The administrative pricing mechanism, referred to in Article 44(3) of the EBGL, will be introduced. The mechanism will be designed to ensure a price supplement to the energy price on the balancing market as a function of the amount of operational reserve available in the Polish power system. The price supplement will be considered when determining balancing energy prices and imbalance prices and will be determined based on the value of lost load and loss of load probability indicators, taking into account the fact that in case of reserve depletion (ie, lack of reserves that can be activated by transmission system operators), imbalance settlement prices will not be lower than the maximum price determined under EU Regulation 2015/1222. This will not affect Poland's application of measures counteracting the use of market power and market participants' strategic behaviour.

### ***Formal membership and active participation in European balancing platform development projects***

Poland intends to join the Manually Activated Reserves Initiative and the Platform for the International Coordination of Automated Frequency Restoration and Stable System Operation projects from the date on which they become operational. In the case of the Trans-European Replacement Reserves Exchange project, Poland will join no later than 15 January 2022. Poland does not plan to join the regional frequency containment reserve initiatives.

### ***Availability payment mechanisms***

As of 1 January 2021, the availability payment mechanisms which are used to help transmission network operators meet their obligation to ensure the security of supply will be terminated. The mechanisms subject to termination are:

- the intervention cold reserve;
- the operational capacity reserve;
- the guaranteed DSR intervention programme; and
- intervention work.

### ***Definition of 'prosumer' expanded***

Other end users (and not only consumers) can now be treated as prosumers, provided that electricity production is not their main economic or professional activity. Consequently, they benefit from a more favourable electricity consumption billing system.

### ***Use of electricity grid as storage***

Since energy cooperatives can now use the electricity grid as storage, they can generate electricity locally and consume it according to their preferences. If there is a surplus, they can feed it into the grid and consume it later.

### ***Feed-in tariff and feed-in premium systems***

Poland has introduced guaranteed feed-in tariff and guaranteed feed-in premium systems, which are intended to provide a guaranteed price for electricity or the right to obtain defrayal of negative price balances for micro, small and medium-sized installations in dedicated technologies.

### ***My Electricity programme***

Launched in 2019, the My Electricity programme intends to support the increase in the production of energy from photovoltaic micro-sources and the awarding of subsidies to more than 200,000 prosumers. As of 15 January 2020, applications for 21,755 beneficiaries for an amount exceeding Zł108 million had been approved.

### ***DSR participation in wholesale energy markets***

From 1 January 2021, DSR can participate in wholesale energy markets (including day-ahead and intraday markets) and in the balancing market on similar terms as other market participants and service providers.

### ***Energy consumers and aggregators can represent DSR***

Detailed rules on aggregation through an independent aggregator and the possibility of introducing financial compensation mechanisms for DSR units will be implemented to the appropriate extent as part of the implementation works.

### ***Retail market regulation***

End users benefit from market prices and can receive related offers. Regulated prices apply only to end users:

- who do not change their supplier;
- whose demand is relatively low;
- who are connected to the low-voltage grid; and
- who are supplied by four suppliers *ex officio*.

Regulated prices are set by suppliers based on reasonable costs. To date, there have been no decisions on the deregulation of household prices. Poland will adapt its national law on the regulation of household prices and the protection of vulnerable consumers in accordance with the relevant provisions to the extent necessary. For the most vulnerable customers (eg, those affected by energy poverty), Poland will assess the number of these customers and implement appropriate measures in accordance with Article 5 of EU Directive 2019/944/EU.

### ***Network development and cross-border exchange***

A transmission network investment programme will be completed by the end of 2025, which will increase the total import capacity of direct current and alternating current connections, allowing for up to 4 gigawatts in conditions of extreme power shortages, provided that under such circumstances a flow-based mechanism ensures that critical elements of the Polish network are used exclusively for energy imports into Poland (ie, not for energy transit). By 1 November 2021, the total import capacity on alternating current and direct current

connections under scarcity conditions in Poland will be increased to 2.5 gigawatts through the phased implementation of the planned investments with the implementation of a flow-based market coupling in the Core region.

### ***Inter-area transmission capacity action plan***

Poland has developed an action plan to meet its obligation to make inter-area transmission capacity available to market participants at a level of at least 70% of the transmission capacity (Article 16 of EU Regulation 2019/943). Under the action plan, the deadline for achieving the 70% target is 31 December 2025.

### ***More effective allocation limits***

Poland plans to improve the application of allocation limits. In order to reduce the frequency of applying allocation limits, Poland intends to change the rules for obtaining balancing capacity (reserves). As part of the reform, as of 1 January 2022, balancing capacity (reserves) must be sourced before the opening of the gate under the single day-ahead coupling mechanism. Cases of allocation limits are reported and monitored by the President of the Energy Regulatory Office.

### ***Capacity market***

A draft act amending the Act of 8 December 2017 on the capacity market has been prepared. It considers the limits introduced by EU Regulation 2019/943. It is indicated that because generation units emitting more than 500g CO<sub>2</sub>/kWh constitute a majority among all generation units in Poland, the draft act covers only the changes necessary to implement EU Regulation 2019/943. Therefore, the admission to the capacity market of units emitting more than 500g CO<sub>2</sub>/kWh and an annual average of less than 350kg CO<sub>2</sub>/kW on an annual basis was dropped. In Point 3 of the draft act, the provisions preventing the participation of units not meeting the 550g CO<sub>2</sub>/kWh limit in the certificates for the purpose of participation in power auctions were indicated. Despite this, units not meeting the indicated limit and established before 4 July 2019 will be admitted for certification and participation in the secondary market only. In implementing the provisions of the regulation, the draft amendment:

- provides for the addition of the elements necessary to apply the emission limits to units which commence operation on or after 4 July 2019; and
- repeals the provisions preventing simultaneous cross-border participation in multiple power mechanisms.

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