

Works on the windmill law amendment are coming to an end

The long-awaited - especially by investors in the renewable energy sector - draft Law on Investment in Wind Power Plants and certain other laws (listed number: UD89) has entered the final stage of government work. On January 9, the draft was discussed by the Standing Committee of the Council of Ministers and according to press statements by Climate and Environment Minister Paulina Hennig-Kloska, the bill will be soon submitted to the Sejm.

THE MOST IMPORTANT CHANGES - ABOLITION OF THE 10H RULE AND LIBERALIZATION OF RULES FOR LOCATING ONSHORE WIND FARMS

The key solution provided in the draft is to liberalize the rules for locating onshore wind turbines by abolishing the general 10H rule and reducing the minimum distance of a power plant from a residential building or a building with a mixed function to 500 m. Currently, the law stipulates that this distance must be equal to or greater than 10 times the total height of the wind power plant, and if the zoning plan specifies a different distance, it should be no less than 700 m.

The rules for locating wind turbines in relation to forms of nature conservation have also been modified: for national parks, a specific distance is proposed - min. 1500 m, while for Natura 2000 areas established for the protection of birds and bats - min. 500 m.

Other changes, relating to wind power plants, include: regulating the possibility of locating them on the basis of Integrated Investment Plan which is a special type of Local Spatial Development Plan, harmonizing the planning process with the general principles set out in the Law on Planning and Spatial Development, and changes concerning the obligation of wind power plant investors to offer a portion of the installed capacity to be taken up by the residents of the municipality in order for them to become virtual prosumers - this obligation is to apply to investments with a total installed electrical capacity of more than 1 MW; in addition, the gratification mechanism has been extended to residents of "nearby municipalities" - that is, municipalities whose area is located at a distance equal to or less than 500 meters from a wind power plant in another municipality.

Moreover, the draft provides for numerous amendments to the Renewable Energy Sources Act and the Energy Law Act, concerning, among other things, the introduction of a dedicated support system for biomethane producers - an auction system modeled on auctions for renewable energy, and the construction of a direct pipeline for the supply of biogas or agricultural biogas.

HOW HAS THE ORIGINAL VERSION OF THE DRAFT LAW CHANGED?

The draft law was published on the Government Legislation Center's (RCL) website on September 25, 2024. The draft has undergone extensive inter-ministerial consultations, public consultations and expert reviews. During the review and consultation process, more than 1,000 comments, authored by approximately 90 entities, were submitted, which highlights the significance of the proposed regulations. As a result, a number of amendments were made. According to summaries published in the RCL, many comments, especially those from the RES sector, could not be included in the law, although the Ministry of the Environment has stated it would subject them to further analysis.

In addition to the most controversial issue of establishing rules and criteria for determining the distance of wind power plants from buildings and forms of nature conservation, the draft allows for shorter distance between power plants and high-voltage power grids, narrowing limitations down to overhead lines only.

Partly in response to submitted comments and inter-ministerial agreements, the draft law has been expanded to include provisions on the operation of energy cooperatives. In particular, the rules for the DSO (distribution system operators) to make metering data available at the request of the cooperative (rather than the energy cooperative), the procedure and sequence of proceedings with regard to the conclusion of contracts with the energy supplier and registration in the National Support Centre for Agriculture (KOWR) list, were refined. Importantly, the establishment of energy cooperatives has also been made possible in urban municipalities, rather than, as before, only rural or urban-rural municipalities (with the proviso that, until the European Commission issues a decision declaring compatibility with the internal market, the application of the support provisions to urban municipalities is suspended).

EXPECTED REGULATORY EFFECTS

Amending the wind law is a government priority announced as part of the "100 concretes for the first 100 days of governing." The development of wind energy aligns with the ambition to reduce the economy's emissions and meet international commitments - according to the project proponents, "onshore wind energy is key to achieving the EU's decarbonization goals and providing clean, affordable and secure electricity to households, industry and, increasingly, the transportation sector." As indicated in the Assessment of Regulatory Effects (OSR), according to estimates by the Polish Wind Energy Association (Polskie Stowarzyszenie Energetyki Wiatrowej), reducing the minimum distance from 700m to 500m could increase the possible capacity of new wind power projects by as much as about 60-70%.

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