Poland: New Support Scheme for Renewable Energy Sources Already Adopted

Poland’s parliament recently adopted a new act on renewable energy sources ("RES") that significantly changes the RES support scheme in the country.

After a lengthy legislative process, the final draft of the act on renewable energy sources (the "Act") was adopted by the Polish parliament on 20 February 2015. The Act will now be put forward for the Polish president’s signature. The Act will come into force once it has received this signature and subsequently been published. Provisions relating to the new support scheme will enter into force on 1 January 2016, while most of the remaining provisions will do so 30 days after publication.


Overview of the new support scheme

The new support scheme will be based on an auction system, in contrast to the current regulations, which are based on green certificates. The subject of the auction will be the amount of energy generated in renewable energy sources ("RES-E"), with the President of Energy Regulatory Office ("PERO") indicating the required amount of energy and its value in the auction's announcement. The production of RES-E should start within 24 months (solar farms), 72 months (wind farms) or 48 months (other sources) from the day on which the auction's winner is announced. The winner will be chosen on the basis of a procedure consisting of two phases: prequalification and the auction itself. Poland’s Ministry of Economy ("ME") expects that there will be a large number of auctions, especially in the first years of the new system.

Separate auctions will be held for RES installations with installed capacities up to 1MW and for those installations that are larger than 1MW.

At least 60 days before the first auction of each calendar year, the ME will publish the reference (maximum) prices for 1 MWh of RES-E produced with the use of different types of RES technology. The ME has stated that reference prices will be set out at a level ensuring that about 80% of the projects will be profitable.

The prequalification phase

In this phase, the RES-E producer will apply for a certificate of admission to the auction. The purpose of the prequalification phase is to guarantee that the participating entities are in a position to start the implementation of the project after winning the auction. The certificate will be issued if all the following criteria with respect to the applicant are met:

i. compliance with a local development plan (other spatial documents of a commune),
ii. holding the conditions for connecting to the grid,
iii. holding an environmental permit,
iv. ensuring the financial capacities to implement the project and providing a business plan,
v. providing a step plan for the project.

PERO should issue or refuse to issue the certificate within 30 days of the filing of the relevant application. Those entities that pass the prequalification phase and receive...
a certificate of admission to the auction will be allowed to take part in auctions within 12 months from the moment of the certificate’s issuance.

Entities failing to pass this phase will have a right to appeal against PERO’s decision, with courts resolving such appeals. The structure of the prequalification phase underscores that investors are well advised to use qualified financial and legal support to help ensure that they can pass it.

The auctions

Auction participants will place offers in which they should indicate the amount of energy they intend to sell and its price. The bidder or bidders (in case one bidder does not declare to sell the full amount of required energy) offering the lowest price will win the auction. The price proposed for RES-E during the auction will remain unchanged for a period of 15 years and the winner or winners will be obliged to sell the declared amount of RES-E for that price even if the market price turns out to be higher.

According to the new support scheme, the energy that is the subject of the auction will be bought by the newly formed state-owned entity Operator Rozliczeń Energii Odnawialnej (with respect to energy produced in installations above 500kW) or by electricity distribution companies (with respect to energy produced in installations up to 500kW).

Support for micro installations

Under the new support scheme, electricity distribution companies will be obliged to buy any surplus of energy produced in micro installations with installed capacities of up to 40kW for 100% of the energy market average price in the past quarter. Such obligation with respect to each micro installation will last for a period of 15 years from the moment the production of RES-E commences (but not longer than until 31 December 2035). Furthermore, there will be no licensing/concession requirements for those micro generators that do not have active business.

Provisions for existing installations

RES-E producers will be able to choose if they want to continue using the current support scheme (but only for the 15 years following the commencement of RES energy production) or move to the auction-based system. The current support scheme is also going to be changed. The substitution fee will be “frozen” at the level of 2014, i.e. PLN 300.03 (ca. EUR 75) per 1 MWh. The above-mentioned solution is aimed at improving the situation on Poland’s RES market, because the price for green certificates was very unstable (e.g. in 2013 it varied from ca. PLN 100 to ca. PLN 200 per 1MWh).

Summary

The adopted solutions will bring about a radical change in the support scheme for RES in Poland. The ME wants to decrease the level of state support for RES. It has been estimated that the cost of the previous support system would amount to PLN 8.90 billion by 2020, whereas the cost of new support scheme would amount only to PLN 4.26 billion during the same time period.