

ENERGY REGULATORY OFFICE
DEPARTMENT OF ENERGY ENTERPRISES

INFORMATION PACKAGE

FOR COMPANIES INTENDING TO CONDUCT BUSINESS ACTIVITIES
IN THE FORM OF
GENERATING ELECTRIC POWER

WARSAW, June 2012

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HOW TO SECURE A LICENCE FOR GENERATING ELECTRIC POWER?

Licensed business activity in the area of generating energy

(Who should hold the licence?)

Pursuant to art. 32 sec. 1 item 1 of the Energy Law Act of 10 April 1997 – (Journal of Laws of 2012, item 1059, consolidated act)¹, hereinafter referred to as the “Energy Law Act”, business activity in the following areas requires securing a licence: production of fuels or generation of energy, excluding: production of solid fuels or gaseous fuels, generation of electric power in sources with total installed electric power not exceeding 50 MW that are not renewable energy sources or sources that generate electric power in cogeneration, excluding generation of electric power from agricultural biogas as well as generation of heat in sources with total installed heat power not exceeding 5 MW.

Necessary conditions which should be met by a future Licence Holder

Entrepreneurs applying for a licence must meet the premises for securing it specified in art. 33 sec. 1 of the Energy Law Act. Pursuant to this provision, the President of ERO grants a licence to an applicant who:

- 1) has its registered offices or place of residence in the territory of the European Union Member State, Swiss Confederation or a member state of the European Free Trade Agreement (EFTA) – a party to the European Economic Area agreement;
- 2) has sufficient financial means to ensure the correct performance of its activity or is capable of documenting the ability to acquire the same;
- 3) has the technical capabilities ensuring the correct performance of its activity;
- 4) will guarantee that it will employ staff with the adequate professional qualifications referred to in art. 54 of the Energy Law Act;
- 5) has obtained a decision on the conditions of land development (an outline planning permission) or a decision on the location of investment in the construction of a nuclear power facility as referred in the Act of 29 June 2011 on the preparation and realization of investments in nuclear power facilities and accompanying investments (Journal of Laws of 2011, No. 135, item 789).

¹ Consolidated text is available on the ERO website at www.ure.gov.pl, in Polish only.

Circumstances preventing securing the licence

Pursuant to art. 33 sec. 3 of the Energy Law Act, the licence cannot be issued to the applicant:

- 1) who is in the course of bankruptcy or insolvency proceedings;
- 2) whose licence for the activity specified in the Act was revoked within the last three years for the reasons specified in art. 58 sec. 2 of the Freedom of Business Activity Act of 2 July 2004 (Journal of Laws of 2010, No. 220, item 1447, as amended), hereinafter referred to as the “Freedom of Business Activity Act” or within the last three years was deleted from the regulated activity register for the reasons referred to in art. 71 sec. 1 of the Freedom of Business Activity Act;
- 3) convicted with a legally binding court verdict for a crime associated with the subject matter of the business activity specified in the Energy Law Act.

Promise of licence

Pursuant to art. 43 sec. 1 of the Energy Law Act, each person who intends to conduct activity involving: generating, processing, storing, transmitting, distributing and trading fuels and energy, which is subject to licensing, may apply for issue of **a promise of licence which is a form of a promise to grant a licence**. During the validity term of the promise, the licence for the activity specified in the promise cannot be denied unless the factual or legal status specified in the application to issue the promise changes (art. 43 sec. 4 of the Energy Law Act). **The promise of licence does not give the right to conduct activity which requires the licence**, hence one cannot effectively demand the purchase of electric power. The promise may be the document which makes it easier for the company to acquire financing for the planned investment and also to secure the licence in the future because the entrepreneur must gather the specified documents when applying for the promise of licence. More details on this may be found below.

Modification and extension of the granted licence (promise of licence)

Entrepreneurs applying for the modification of the licence (promise of licence) should attach to the application documentation on the subject of change to the issued decision. Changes in the licence (promise of licence) in principle can be divided into two types, i.e. concerning formal legal situation of the licensee (e.g. change of the name, registered office address or company’s partners etc.) and concerning change in the scope of activity, which is associated with technical

capabilities available to the licensee (e.g. intention to extend/restrict the scope of a licence or a promise of licence). In the first case, the application should include formal legal documents concerning the situation of the licensee, while in the second case it is of particular importance to demonstrate technical capabilities at the disposal of the licensee.

Pursuant to art. 39 the Energy Law Act, entrepreneur should submit an application for an extension of the licence not later than 18 months before its expiration date (determined by the date of posting in Polish post office managed by public operator). Extension of the licence is equivalent to recognition by the licensing authority that the entrepreneur meets specified conditions for the exercise of the licensed activity. This involves the necessity to examine whether the entrepreneur who has applied for an extension of the licence still meets conditions for exercising activities covered by the licence and if the formal legal status has not changed.

After the expiration of the abovementioned deadline for submitting the application for an extension of a licence, entrepreneur intending to continue the activities covered by the licence must apply for reissuing the licence. It is important to note that such a request should be submitted in time allowing to handle the matter and issue a decision on granting a new licence before the expiration date of the previous licence in accordance with the terms set out in the Act of 14 June 1960 entitled the Administrative Proceedings Code (Journal of Laws of 2000, No. 98, item 1071, as amended), hereinafter referred to as the "Administrative Proceedings Code" or "Code".

Preparing the application

When preparing the application to grant a licence (a promise of licence), the applicant should be aware of the fact that the more completely the application is prepared (it contains all the necessary exhibits), the smoother the licensing process (the promise of licence) will run. The scope of the presented documentation should make it possible to determine that the applicant fulfils all of the conditions required for securing the licence and that there are no circumstances pertaining to the applicant which justify refusal of granting the licence.

THE APPLICATION TO GRANT A LICENCE (or a promise of licence, respectively – see art. 43 sec. 5 of the Energy Law Act) should contain in particular the following (description pursuant to art. 35 sec. 1 of the Energy Law Act):

- 1) designation of the applicant and the registered offices or place of residence, and if proxies are appointed to perform the legal duties on the applicant's behalf, it should also include their first and last names and their addresses for correspondence purposes;
- 2) specification of the subject matter and scope of the conducted activity for which the licence is to be issued;
- 3) information about the applicant's previous activity, including their financial statements for the last three years if the entity is conducting business activity;
- 4) specification of the term for which the licence is to be granted and specification of the start date of the activity. The licence is granted for a definite term not shorter than 10 years and not longer than 50 years unless the entrepreneur requests a licence for a shorter term (art. 36 of the Energy Law Act). **A promise of licence shall specify its term of validity, however it cannot be shorter than six months** (art. 43 sec. 3 of the Energy Law Act);
- 5) specification of the resources available to the entity applying for the licence, for the purpose of correct performance of the activity covered by the application;
- 6) number in the register of entrepreneurs or in the register of business activities² and the taxpayer identification number (NIP);
- 7) appendix according to the specification presented in the following part of this compilation.

An applicant failing to meet the conditions prescribed by the law, faces the possibility of the licence (promise of licence) being denied pursuant to art. 35 sec. 3 of the Energy Law Act. Furthermore, according to art. 38 of Energy Law Act granting the licence may depend on the submission of security on property by an applicant in order to satisfy any third party claims which may arise due to incorrect conduct of activities covered by the licence, including damage to the environment.

If the application to grant the licence (the promise of licence) does not contain all the necessary documents, the entrepreneur, pursuant to art. 50 of the Freedom of Business Activity Act, will be summoned to deliver the missing documents by the set deadline. **Failure to provide missing documentation specified in the summons despite being summoned by the regulatory authority to provide them, is a foundation for refusing to examine the application**, pursuant to art. 50 sec. 1 of the Freedom of Business Activity Act. This results in the procedure being closed and requires

² In connection with entry into force of the regulations concerning the Central Registration and Information on Business (CEIDG), for the scope of the required documents see chapter: *Documents showing that the organizational requirements ensuring adequate performance of the business activity covered by the licence (promise of licence) are met* (point 1).

the application to be resubmitted with all the required documents, while the documents previously submitted to the Energy Regulatory Office may be used in that new procedure provided that they are still valid.

It should also be emphasized that the summons to complete the application may also be executed pursuant to art. 64 of the Administrative Proceedings Code (Journal of Laws of 2000, No. 98 item 1071, as amended), hereinafter referred to as the “Administrative Proceedings Code” or the “Code”. Pursuant to that provision (§ 1) if the applicant’s address is not specified on the application and it is not possible to determine that address on the basis of available data, the application will not be examined. In addition, (§ 2) if the application does not meet other requirements prescribed by the law, the applicant should be summoned to provide the missing information within seven days with the instruction that failure to provide the missing information will result in non-examination of the application.

Addressee of the application to grant a licence (promise of licence)

The entrepreneur’s written application to grant a licence (promise of licence) should be sent to the President of the Energy Regulatory Office, to the following address: **ul. Chłodna 64, 00-872 Warsaw**.

Additional information in this case may be obtained from ERO Department of Energy Enterprises, rooms 404, 407, 418, phone +48 (22) 661-63-08; 661-61-05; 661-61-20, 661-62-34, e-mail: dpe@ure.gov.pl – with the note: DPE-2 or Unit for Electric Power and Gas Network Enterprises.

Duration of the procedure

The duration of the licensing procedure mostly depends on completeness of the submitted application, possibly the party’s activity in supplementing the necessary documents.

If the application contains all the necessary attachments or will be completed, the matter will be dealt with in accordance with art. 35 § 1 of the Administrative Proceedings Code.

It is important that under art. 35 § 5 of the Administrative Proceedings Code, the deadlines envisaged in the provisions of law for performing the specified actions and the periods of delay resulting from a party’s fault or from reasons beyond the regulatory authority’s control **are not included** in the deadlines for handling the case. Therefore, a party’s failure to take actions in

compliance with the regulatory authority's summons may cause the administrative case to be handled in a correspondingly longer period of time.

In the course of proceedings on granting the licence, President of the Energy Regulatory Office is obliged to obtain the opinion of the competent local voivodeship board, which also has an impact on the duration of the proceedings (art. 23 sec. 3 and 4 of the Energy Law Act).

Fees associated with securing the licence (promise of licence)

Pursuant to art. 6 sec. 1 items 1-4 of the Stamp Fee Act of 16 November 2006 (Journal of Laws of 2012, item 1282, consolidated act), hereinafter referred to as the "Stamp Fee Act", the obligation to pay the stamp fee for issue of the licence (promise of licence) emerges at the moment of **submitting the application** to issue the licence (promise of licence).

In accordance with Art. 8 par 1 of the Act in connection with Art. 2 par 1 of the Act of 13 June 2007 on the change of the "Stamp Fee Act" (Journal of Laws of 2007, No. 128, item 883) the payment of the stamp fee should be made at the cash desk of an appropriate tax authority or into its bank account.

The stamp fee rates, determined in an exhibit to the aforementioned act, for the tasks associated with the scope of actions of the President of ERO, are as follows:

- for a promise to issue a consent (promise of licence) – **PLN 98** (part I item 20 of an exhibit to the Stamp Fee Act);
- for an extension of the validity term or change of conditions of the promise to issue a consent (promise of licence) – **PLN 44** (part I item 21 of an exhibit to the Stamp Fee Act);
- for issuing a consent (licence) – **PLN 616** (part III item 44 of an exhibit to the Stamp Fee Act);
- for an extension of the validity term or change of conditions of the issued consent (licence) if:
 - it concerns an extension of the validity term or broadening of the scope of activity – **50%** of the rate for issuing a consent (licence) i.e. **PLN 308** (part III item 46 of an exhibit to the Stamp Fee Act);
 - the change involves another type of activity – **100 %** of the rate for issuing a consent (licence) i.e. **PLN 616** (part III item 46 of an exhibit to the Stamp Fee Act).

If the document confirming the granting of a power-of-attorney or attorney-in-fact rights or its excerpt, extract or copy is submitted (which applies also to submitting a certificate of Legal Register of Companies (KRS) confirming granting of a power-of-attorney or proxy), the stamp fee in the amount of **PLN 17** should be paid (part IV of an exhibit to the Stamp Fee Act). If there are

simultaneously ongoing proceedings the stamp duty must be paid on each power of attorney or proxy. That fee is not collected in the case of submitting a document confirming granting of a power-of-attorney as well as its excerpt, extract or copy:

- certified by a notary or an authorized authority, authorizing to receive the documents;
- if the power-of-attorney is granted to a spouse, a descendant, an ancestor or a sibling;
- if the principal is the entity specified in art. 7 items 1-5 of the Stamp Fee Act.

Pursuant to art. 12 sec. 2 of the Stamp Fee Act, the tax authority with geographic jurisdiction in stamp fee matters:

- a) on performance of an office duty, issuing a certificate, a licence (a promise of licence) – is the tax authority with geographic jurisdiction over the authority's seat;
- b) on submitting a document confirming granting of a power-of-attorney or attorney-in-fact rights or its excerpt, extract or copy – is the tax authority with geographic jurisdiction over the place of submitting the document.

Due to the fact that **the seat of** the central administration authority – **the President of the Energy Regulatory Office** – is **the capital city of Warsaw**, the stamp fee in the cases mentioned in item a) should be paid to the tax authority with geographic jurisdiction – the Mayor of the capital city of Warsaw. If the payments are not made in cash, they should be paid to the bank account of the Office of the Wola District – the capital city of Warsaw, Al. Solidarności 90, 01-003 Warsaw, account no. **BANK HANDLOWY PL 54 1030 1508 0000 0005 5003 6045**, SWIFT code: CITIPLPX.

For a submitted document confirming the granting of attorney or proxy and its copy, extract or copy the stamp duty shall be paid in cash at the counter of tax authority or by transfer to the account of the relevant local tax authority according to the place of submitting the document (Branch Office of the Energy Regulatory Office with jurisdiction over the area).

If the **original (or in respect of charges for the power-of-attorney - a certified copy)** of the stamp fee payment receipt is not attached to the application, which prevents the performance of an office, the entrepreneur will be summoned to make the relevant payment. If the stamp fee payment receipt is not supplemented despite the fact that the summons to send it was dispatched, this will form the premise for returning the application pursuant to art. 261 sec. 2 of the Administrative Proceedings Code, which will result in termination of the procedure to issue a licence (a promise of licence).

In case of missing confirmation of the stamp fee payment receipt for the power-of-attorney or proxy, pursuant to art. 11 sec. 1 and 3 of the Stamp Fee Act, the President of ERO is required to provide information to the competent tax authority in order to initiate administrative enforcement due to non-payment of stamp duty for the power-of-attorney or proxy.

The confirmation of the stamp fee payment receipt may take a form of printout from the computer system.

Stamp duty exemptions

Pursuant to art. 7 items 2 and 3 of the Stamp Fee Act, the following entities are exempt from paying a stamp fee:

- state budget units;
- local self-government units.

Pursuant to art. 3 of the Stamp Fee Act, the following actions are not subject to a stamp fee: performance of office duties, issuance of a certificate and consent (permit to licence) if, pursuant to separate provisions, they are subject to other civil law fees or are exempt from those fees. Such exemption is envisaged under the Energy Law Act.

The list of documents, which should be attached to the application to grant the licence (promise of licence) for generating electric power

- I. **Documents showing that the entrepreneur meets the organizational and formal legal requirements ensuring adequate performance of the business activity covered by the licence (the promise of licence):**
 - 1) current certificate of **entry in the register of business activities** or excerpt from the **register of entrepreneurs**, obtained not earlier **than 3 months** prior to submitting to the licensing authority (for entrepreneurs - individuals whose data is not in the Central Register and Information on Business Activity - CEIDG)³ (C or O)* (P)**;
 - 2) current copy of Certificate of Legal Register of Companies (KRS) obtained not earlier than three months prior to submitting to the licensing authority (C or O)* (P)**;

³ Entrepreneurs - individuals whose data was not transferred to CEIDG before 31 December 2011 are obliged after 1 July 2011 to provide a certificate from appropriate municipal authority including the number which applies to the business register for license procedures. After 31.12.2011 this number in CEIDG replaces the NIP number. This results from the entry into force the "Freedom of Business Activity Act" introducing CEIDG institution.

- 3) certificate of awarded tax identification number **NIP** - in case of missing NIP on other submitted documents (C or O)* (P)**;
- 4) in the case of partnerships – the articles of association (C)* (P)**;
- 5) current information from the National Criminal Register about entrepreneur's lack of a criminal record (for commercial law companies – company management board members, and for partnerships – all partners) and current information from the National Criminal Register about the enterprise's lack of a criminal record (as a collective entity); If an entrepreneur, partner or Board member is not a Polish citizen, it is required to send an appropriate notice issued by the competent authority of the country of which the above person is a citizen, with a translation by a sworn translator into Polish (O)* (P) **;
- 6) entrepreneur's declaration that in the last three years the entrepreneur has not been deleted from the register of regulated activities for the reasons specified in art. 71 sec. 1 of the Freedom of Business Activity Act (O)*;
- 7) entrepreneur's declaration that there is no pending application for declaring the entrepreneur's bankruptcy and that the enterprise is not insolvent (O)* (P)**;
- 8) documents confirming entrepreneur's legal title to the properties and installations necessary to conduct a licensed business (such as a notarial deed, an extract from the land and mortgage register, an extract from the land register, lease agreement, contract of lending for use, purchase invoices, etc.) and in the justified circumstances an appropriate statement (C or O)*;
- 9) entrepreneur's declaration that all **persons employed in the operation** of the electric power networks, installations and equipment possess the qualifying certificates required by statutory provisions of the Energy Law Act, entitling to operate such networks, installations and equipment (O)* (P)**;
- 10) in the case of conducting actions through a proxy, the power-of-attorney to perform legal actions on the applicant's behalf (along with the original receipt for payment of the stamp duty amounting to PLN 17) (C or O)* (P)**;
- 11) receipt for payment of the stamp duty due for issuing a licence or a promise of licence (O)* (P)**.

II. Documents showing that technical requirements ensuring adequate performance of business activities have been met:

- 1) description of the technical parameters of the equipment to be used for generation of electric power, including a description of the type of fuel to be used and technical status of the said equipment (C or O)* (P)**;
- 2) characteristics of electricity consumers,
- 3) decision on the conditions of land development (an outline planning permission), or the decision on the location of a public interest investment (or a document confirming the admissibility of locating the planned investment on the given land site – in the case of a promise of licence) (C or O)* (P)**;
- 4) decision granting the building permit for the equipment, installations and network (C or O)*;
- 5) documents confirming completion of construction or launching the operation of the facilities (depending on the terms specified in the building permit):
 - a) permission to operate and protocol of technical verification, approval and acceptance of the operating system and network devices (C or O)*; or
 - b) notification to the relevant building supervisory authority about completing the construction (submitted at least 21 days in advance of the planned date of launching operation) and protocol of technical verification, approval and acceptance of the operating system and network devices In the case that the relevant building supervisory authority does not raise its objection to the investment, within 21 days **of delivery** of the aforementioned notification, an applicant's statement about this fact should be attached to the procedural documentation (C or O)*;

If there is no possibility to present a permission to operate, or the decision granting building permit along with the notice of completion of the construction, entrepreneur presents the decision on the conditions of land development (the outline planning permission) or decision on the location of a public interest investment or information about compliance with the local zoning plan, together with the information obtained from the architectural - construction authority, building supervisory authority, or the municipal office about the date of building's foundation and confirming the lack of possibility to obtain a copy of abovementioned permissions or information about the release of these permissions and the information from building supervisory authority confirming that the investment is not an unauthorized construction and meets the requirements of the law (C or O)*;

- 6) decision specifying the technical requirements for connection to the power grid (so-called conditions for connecting to grid) or so-called connection agreement (C or O)*;
- 7) in the case of units in which is planned electricity generation using co-firing of conventional fuels and biomass, with the use of the support system set out in art. 9a sec. 7 of the Energy Law Act, it is necessary to submit corresponding documents as in the case of electricity generating units in the co-firing technologies, among others:
 - so-called “Credential documentation. Installation for production and procedures for accounting the energy from renewable sources” – 2 copies
 - opinion about the presented documentation (formulated by an independent third party) – 2 copies
- 8) agreements, decisions and permits required by other regulations, in particular with regard to the technical, environmental and ecological security:
 - decisions and protocols of the Office of Technical Inspection
 - integrated permit, or in the absence thereof: permit to introduce pollutants into the air, water permit and permit for waste generation;
 - document confirming application to the environmental authority informing about operated installation introducing gases or particles into the air (if it is the subject of the application).

III. Documents showing possession of financial capabilities ensuring adequate performance of the business activities covered by the licence:

- 1) specification of planned annual revenues and costs connected with the activities for which the licence is sought, covering at least three years, (O)* (P)**;
- 2) specification of planned energy supply in MWh covering at least three years (O)*
- 3) financial statements for the last three years (annual PIT returns for natural persons or partners to civil law partnerships, balance sheets and profit & loss accounts for other entities), and should the entrepreneur be in business for less than three years – the same documents for the time period since launching the business (C or O)* (P)**;
- 4) other documents confirming the possession or possibility to acquire the financial means sufficient for a proper conduct of a licensed business (bank guarantees, insurance guarantees and indemnity contracts) (C or O)*;
- 5) certificate from the bank keeping the entrepreneur’s main account, specifying the entrepreneur’s amount of turnover, payment and creditworthiness status, with information about credits extended to the entrepreneur and information whether the account is free of enforcement titles (C or O)* (P)**;

- 6) certificate from the relevant branch of ZUS Social Insurance confirming that the entrepreneur is not behind with payment of social security contributions or that does not appear in the records of contribution payers (in the case of the business for which this is not an obligation to report to the Department of Social Security) in the case of partnerships, it is necessary to present the certificates from the Tax Office separately for each shareholder and the company (C or O)* (P)**;
- 7) current certificate from the relevant Tax Office confirming that the entrepreneur is not in arrears in payment of liabilities to the State Budget (C or O)* (P)**;

Documents listed in points 5) to 7) have to be up-to-date, that is obtained not earlier than 3 months before submitting to the ERO President.

Additional comments for the entrepreneurs whose registered Offices or places of residence are located in the EU Member States, Swiss Confederation or EFTA member states, applying for the concession:

- 1) the entrepreneurs from the EU Member States, Swiss Confederacy or EFTA member states may conduct a licensed business in Poland directly, not through the means of a branch. In such a case entrepreneurs should submit a copy of an appropriate equivalent of the Polish National Court Register in the country of company's registration (of course only if the planned business is to be conducted without opening a branch);
- 2) certificate of no criminal record for the members of the Management Board should be issued by the Polish National Criminal Register and its equivalent in the country where the company is registered, obtained **not earlier than three months** prior to submitting to the licensing authority (O)*(P)**;
- 3) additionally, if the above mentioned persons are not citizens of the country of the company's registration, it is **also** required to send an appropriate notice issued by the competent authority of the country of which the above persons are citizens, obtained **not earlier than three months** prior to submitting to the licensing authority with a translation by a sworn translator into Polish (O)* (P)**;
- 4) information regarding criminal record of **the company (as a collective entity)** should come from the Polish National Criminal Register and equivalent register from the country of registration of the company (if such records exist), obtained **not earlier than three months** prior to submitting to the licensing authority with a translation by a sworn translator into Polish (O)* (P)**;

- 5) decision of tax authority on the issue of the Tax Identification Number may come from the country of the company's registration (Polish Tax Identification Number will also be accepted) (C or O)* (P)**;
- 6) the accordance of the submitted documents with the law of the place of its issue should be confirmed in the way described in art. 3 sentence 1 of the Hague Convention of 5 October 1961 which abrogates the requirement to legalize foreign official documents, i.e. with the application of **the apostille clause**. According to art. 3 sentence 2 of the Convention, adding the apostille cannot be required when (...) the agreement between two or more countries abrogated or simplified the legalization or waived the legalization;
- 7) documents submitted in a foreign language **must be translated into Polish by a sworn translator**. All the pages of the submitted documentation should be signed by the persons authorized to represent the entrepreneur;
- 8) entrepreneur living abroad or having a headquarters abroad, who **does not establish attorney** to pursue the case of the entrepreneur in the country, is obliged to indicate the country representative for the correspondence purposes. If there is no indication of such a representative all documents for the entrepreneur will stay in act files with effect of delivery according to the art. 40 §5 of the Administrative Proceedings Code.

* Designation of a document with the letter "O" – documents submitted to the ERO must be originals; designation of a document with the letter "C" – documents submitted to the ERO may be certified (**on each page** of the document) as conforming with the original, copies of such documents. It is allowed to certify the copies of original documents by entrepreneur, a person authorized to represent entrepreneur, notary or attorney acting on behalf of entrepreneur, solicitor, patent attorney or tax advisor.

** Documents required to obtain a promise of licence are marked with the letter "P".

In the case of an application for a licence by the entrepreneur who has a promise of licence, there is a need for forwarding the documents, which were not required when submitting an application for a promise of licence and re-submit the documents, which expired (e.g. copy of Certificate of Legal Register of Companies (KRS), certificate of no-criminal record from National Criminal Register, certificate of entry in the register of business activities for entrepreneurs whose data is not in the Central Register and Information on Business Activity – CEIDG).

CAUTION

The documents directory included in this package does not have a closed character, which means that individual factual and formal legal situation may require application of additional explanatory steps by the President of the Energy Regulatory Office, this may include summoning the entrepreneur during the proceedings on granting/changing/extending licence (promise of licence) on the production of electricity, in accordance with Art. 50 § 1 of the Freedom of Business Activity Act, to provide additional information and documentary evidence assuring that the entrepreneur meets the conditions laid down by law to conduct business activity in the field of electricity generation.

Disclosure obligations

Pursuant to art. 59 of the Freedom of Business Activity Act, an entrepreneur is obliged to notify the licensing authority about any change in data referred to in art. 49 of the act, within 14 days from the date of their creation. In particular, the data such as:

- 1) the entrepreneur's company, an indication of its registered office and address or place of residence and main address of the principal place of business;
- 2) the number of entrepreneur in the registry or in the records and tax identification number (NIP);
- 3) the nature and extent of the business for which the licence was granted.

At the same time it should be noted that under art. 48 sec. 2 of the Freedom of Business Activity Act the licensing authority, in the course of the granting the licence is obliged to provide **any interested entrepreneur** detailed information on detailed conditions for pursuing a business activity covered by the licence, which will be specified in the licence. Therefore, the applicant interested in obtaining the above information in the course of administrative proceeding should submit an application **in writing**.

The annual licence fees

Entrepreneurs, who have been granted the licence are obliged to the calculation and payment of the annual fee to the state budget, which charges the cost of their operations. This obligation is based on art. 34 sec. 1 of the Act - Energy Law Act and the Regulation of the Council of Ministers of 5 May 1998 in the matter of the amount and method of collecting, by the President of the Energy Regulatory Office, the annual fees paid by the energy companies which have been granted the licence (Journal of Laws of 1998, No. 60 item 387 and of 1999, No. 92 item 1049).

The above fee is a ratio of revenue from the activities covered by the licence and the coefficient 0.0006 and may not be less than 200 PLN and not more than 1 000 000 PLN for each kind of activity. Licence fee payment in the calculated amount must be made by 31 March each year.

Execution of business activity without a licence

Pursuant to art. 60¹ of the Code of Petty Offences Act of 20 May 1971 (Journal of Laws No. 46 item 275, as amended), executing business activity without the required licence is subject to a penalty restricting freedom or a fine.