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PLN 1.5 million penalty for an energy trading company

The President of URE issued a decision on imposing a PLN 1,500,000 penalty on PGE Obrót S.A. energy company for using its and “PGE Dystrybucja SA” tariffs not in accordance with their terms and conditions.

The company violated the law provisions by using settlement periods inconsistent with the “PGE Dystrybucja SA” tariff in settlements with its customers, and incorrect settlements due to the fixed component of transmission fee and service charge, when the rates were changed during the settlement period. Consequently, the customers incurred unjustified costs.

In the course of administrative proceeding, the company was asked to provide explanation and send case-related documents regarding settlement periods for specific customers from particular tariff groups, covering the years 2008-2011.

Making his decision on the penalty, the President of URE has expressly stated that by entering into a common service agreement, an energy trading company is responsible for both sale and supply of electricity. This clearly defined and absolute obligation was imposed on energy companies that render a comprehensive service under Article 5, item 5 of the tariff regulation. When a customer and an energy trading company enter into a common service agreement, customer’s claims are put forward to the seller.

Having completed the administrative proceeding, and taking into consideration the customers’ interest and respect for the market participants’ rights, the President imposed a penalty on PGE Obrót S.A. under Article 56, item 1, sections 12 and 6 of the Energy Law Act. Educational and preventive nature of this penalty is the President's reaction to the violation of law provisions and is a long-term action to prevent such behaviour in the future.

When setting the penalty amount, pursuant to Article 56, item 6 of the Energy Law Act, the President of URE took into account, apart from the degree of fault, also its harmfulness, the

company’s behaviour so far and its financial capacity.

In 2011, penalties imposed by the President of URE for violating the provisions of the Energy Law Act totalled PLN 70 million. The majority of proceedings was related to the non-performance of obligations under the licence and violation of Article 56, item 1, section 12 of the Energy Law Act.

The President of URE supervises the security of the energy market and proper performance of obligations of the licensed enterprises.

Actions undertaken by the President of URE are aimed at ensuring energy security, developing competition, taking into account environment protection requirements, obligations arising under international agreements and balancing interest of customers and energy companies. To fulfil the above tasks effectively, the regulatory body has the right to impose penalties under Article 56, item 1 of the Energy Law Act. When imposing a penalty, the President of URE takes into consideration the degree of fault, degree of harm, the company’s behaviour so far and its financial capacity.

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