

ENERGY REGULATORY OFFICE

**INFORMATION PACKAGE
(CHP)**

**FOR ENTREPRENEURS WHO INTEND TO CONDUCT BUSINESS
BASED ON GENERATING ELECTRICITY IN RENEWABLE
ENERGY SOURCE (RES) INSTALLATIONS, INCLUDING
COGENERATION UNITS (RES CHP)**

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Table of Contents:

Licensed business activity in the area of generating electricity3

Promise of licence /promise of licence modification4

Necessary conditions which should be met by an Applicant5

Circumstances preventing securing the licence5

Modification and extension of the granted licence (promise of licence).....6

Preparing the Application7

Addressee of The Application.....9

Duration of The Procedure9

Fees associated with licence (promise of licence or promise of licence modification) granting procedure 10

Stamp duty exemptions 11

The list of documents, which should be attached to the application to grant the licence for generating electricity in cogeneration 11

I. Documents Indicating Compliance with Legal and Organizational Conditions:..... 12

II. Documents indicating that technical conditions ensuring proper business operations are met:..... 14

III. Documents confirming that the applicant has financial resources ensuring the proper conduct of the activity or has the ability to obtain them. 16

Additional notes for Entrepreneurs having their registered office or place of residence in member states of the European Union, the Swiss Confederation, or Member States of the European Free Trade Association (EFTA) – parties to the agreement on the European Economic Area or Turkey, applying for a license: 18

Other Important Information 19

Annual License fees 20

Conducting Business Activities Without a License..... 21

Information on Processed Personal Data 21

List of Legal Acts 22

Other Legal Acts Related to the Licensing of Business Activities 23

Licensed business activity in the area of generating electricity

(Who should hold the licence?)

Pursuant to Article 32 item 1 point 1b, c and d of the Energy Law Act of 10 April 1997 [1], hereinafter referred to as the “Energy Law Act”, business activity in the area of generation of electricity requires obtaining a licence, **excluding** generation of electricity:

1. in sources with total installed capacity not exceeding 50 MW **that are not renewable energy sources installations or cogeneration units**,
2. in micro-installations or small installations,
3. exclusively from agricultural biogas, including in co-generation, and exclusively from bioliquids within the meaning of the Act of 20 February 2015 on Renewable Energy Sources [2], hereinafter referred to as the RES Act.

Thus, according to the wording of the aforementioned regulations, any business activity in the field of electricity generation in renewable energy installations is subject to licensing, **except for** micro-installations or small installations and installations generating electricity exclusively from agricultural biogas, including in cogeneration, and exclusively from biofluids.

For small installations, as well as installations generating electricity exclusively from agricultural biogas, including in cogeneration, other than micro-installations, and installations generating electricity exclusively from biofluids in renewable energy installations, it is required to obtain an entry in the register of regulated activities:

1. a register of electricity producers in a small installation (kept by the President of the Energy Regulatory Office – see Article 7 item 1 and item 8 of the RES Act, subject to Article 7 item 2 of the same act).
2. a register of producers of agricultural biogas and register of bioliquids producers (kept by the Director General of National Support Centre for Agriculture – see Article 24 and 34 of the RES Act, respectively).

The term "**micro-installation**" refers to a renewable energy source installation with a total installed electrical capacity not exceeding 50 kW, connected to a power grid with a nominal voltage lower than 110 kV, or with a generating thermal capacity in cogeneration not exceeding 150 kW, where the total installed electrical capacity does not exceed 50 kW (Article 2, item 19 of the RES Act). In turn, the term "**small installation**" refers to a renewable energy source installation with a total installed electrical capacity greater than 50 kW and not exceeding 1 MW, connected to a power grid with a nominal voltage lower than 110 kV, or with a generating thermal capacity in cogeneration greater than 150 kW and less than 3 MW, where the total installed electrical capacity is greater than 50 kW and not exceeding 1 MW (Article 2, item 18 of the RES Act).

Only licensed energy enterprises, as well as enterprises registered in the aforementioned registers of regulated activities (if a license or registration is required), which generate electricity in a **renewable energy source installation, may apply for the issuance of certificates of origin** referred to in Article 45 of the RES Act (**provided that the first production of electricity**

in the given installation occurred before July 1, 2016) or participate in the auction-based support system for generating electricity from renewable sources or in the **tariff support systems**, known as *feed-in tariff* (FIT) and *feed-in premium* (FIP).

Furthermore, only licensed energy enterprises as well as enterprises registered in the aforementioned registers of regulated activities (if a license or registration is required) **generating electricity in renewable energy installations that are also cogeneration units** can benefit from the mechanisms and instruments supporting the generation of electricity from high-efficiency cogeneration provided for in the Act of December 14, 2018, on promoting electricity from high-efficiency cogeneration [3], hereinafter referred to as the "CHP Act".

IMPORTANT: Verification of compliance with the aforementioned requirements will take place through separate and individual proceedings, during which the President of the Energy Regulatory Office (URE), in appropriate decisions issued based on the RES Act or the CHP Act, will determine the eligibility for the support system, including its type and scope.

In accordance with Article 32 item 1a of the Energy Law Act, **effective from January 1, 2020**, a license for the production of electricity from renewable energy sources in a given renewable energy source installation is issued for the first time only if the devices comprising this installation, used for generating this energy:

1. meet the requirements specified in Article 74 item 1 of the RES Act, or
2. have a valid confirmation of compliance with the certified device type or a declaration of compliance with relevant standards, issued by their manufacturer for the specific location of the renewable energy source installation, and were manufactured no earlier than 72 months before the first production of electricity in this installation.

Promise of licence /promise of licence modification

According to Article 43 item 1 of the Energy Law Act, anyone intending to conduct business activities involving, among other things, the generation of electricity in renewable energy installations, which requires a license, or to change the scope of such activities, may apply for a license promise or a promise to amend the license. A license promise serves as a kind of assurance of the granting or modification of a license. During the validity period of the promise, a license for the activity specified in the promise or its modification cannot be refused, unless the factual or legal situation stated in the application for the promise has changed (Article 43 item 4 of the Energy Law Act). **The promise specifies its validity period, which cannot be less than six months** (Article 43 item 3 of the Energy Law Act). Although the legislator has not defined an upper limit for the validity of the promise, considering the function of this document, it is typically issued for the expected duration of the investment implementation.

A license promise does not grant the right to conduct business activities in areas that require a license. Therefore, it is not permissible to engage in licensed activities based on a promise. However, a license promise can serve as a document facilitating a company's acquisition of financing for the planned investment and the future obtaining of a license. This is because, at the stage of applying for the promise, the entrepreneur must gather certain documents, as outlined

below.

In accordance with Article 43 item 5 of the Energy Law Act, Article 35 of this Act applies accordingly to the application for the issuance of a promise.

Furthermore, according to Article 43 item 7 of the Energy Law Act, an application for the issuance of a license promise or a promise to amend a license for conducting business activities involving the generation of electricity in a cogeneration unit must include a technical and economic description of the planned investment, for which the commencement of work will occur after January 25, 2019. The form for such a description is available on the URE website under the section related to licensing electricity producers in cogeneration (examining the so-called "incentive effect"). Detailed conditions related to the examination of the "incentive effect" are available on the URE website.:

<https://www.ure.gov.pl/pl/biznes/jak-uzyskac-koncesje/energia-elektryczna/2344,Kogeneracja.html>

Necessary conditions which should be met by an Applicant

An entrepreneur applying for a license must meet the prerequisites for obtaining it as specified in Article 33 item 1 of the Energy Law Act. According to this provision, the President of URE grants a license to an applicant who:

1. has its registered office 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 or Turkey;
2. has sufficient financial resources to ensure 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 Article 54 of the Energy Law Act;
5. has obtained a decision on the conditions of land development (if the need to obtain such a decision is due to the conditions of the applicant) or a decision on the location of investment in the construction of a nuclear power facility, as referred to in the Act of 29 June 2011 on the preparation and realization of investments in nuclear power facilities and accompanying investments [4];
6. is in no arrears with payment of taxes which constitute income of the state budget, except for cases when the applicant obtained tax release, deferral, rescheduling the payment of tax arrears or tax on instalments or withholding the execution of a decision issued by a relevant tax authority or fiscal control body, as stipulated by the legal provisions in force.

Circumstances preventing securing the licence

Pursuant to Article 33 item 3 of the Energy Law Act, the licence cannot be issued to the applicant:

1. that is in the course of bankruptcy proceedings or liquidation;
2. whose licence for the activity specified in the Act was revoked within the last three years for the reasons specified in Article 41 item 3 of the Energy Law Act or who within the last three years was deleted from the regulated activity register because of decision prohibiting the applicant from activities specified in the register entry due to:

- a) submitting a declaration on compliance with legal requirements for conducting the activity, which was inconsistent with facts, or
 - b) non-remedying a breach of legal requirements for conducting the activity within the deadline specified by the authority, or
 - c) flagrant breach of legal requirements for conducting the activity;
3. convicted for a crime or fiscal crime related to the business activity conducted with a valid court decision;
 4. that is not registered as VAT payer;
 5. if another entity having a material impact on it or exercising or co-exercising control over it, within the meaning of Article 3 item 1 points 34, 35 and 36 letters a, b, e and f of the Accounting Act of 29 September 1994 [5], hereinafter referred to as “the Accounting Act”, was convicted for a crime or fiscal crime related to the business activity conducted, as determined in the Act, with a valid court decision within the last three years.

IMPORTANT: Pursuant to Article 33 item 3a of the Energy Law Act, in the case of an applicant which is:

1. a legal person, or
2. an organizational unit without legal personality, or
3. a foreign entrepreneur, or
4. a foreign entrepreneur conducting business activities in the territory of Poland through a branch with a registered office in the territory of Poland, established under the conditions and principles specified in the Act of March 6, 2018, on the principles of participation of foreign entrepreneurs and other foreign persons in economic trade in the territory of Poland [6].

the condition referred to in Article 33 item 3 point 3 of the Energy Law Act (i.e. clean criminal record) also applies to persons authorized to represent them and members of supervisory boards.

It should also be borne in mind that pursuant to Article 33 item 3c of the Energy Law Act the President of URE shall suspend the licence granting proceedings in case of an **applicant** with respect to which a decision was issued to present charges of committing a crime or a fiscal crime related to the business activity it conducts, or when such a decision was issued with respect to **persons and members referred to** in Article 33 item 3a of the Energy Law Act, until the preparatory and court proceedings are completed.

In addition, pursuant to Article 41 item 2 point 4 of the Energy Law Act, the President of URE shall revoke a licence in the case of failure to meet any of the conditions referred to in Article 33 item 1 or of occurrence of the circumstances referred to in Article 33 item 3 points 2-7 or item 3a.

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

Entrepreneurs applying for the modification of the licence (promise of a licence or promise of a licence modification) should attach to the application documentation on the subject of modification to the issued licence. Modifications in the licence (promise of a licence or promise of a licence modification) in principle can be divided into two types, that is concerning formal legal situation of the licensee (e.g. change of the name, address or registered office or company's or partnership's partners, etc.) and concerning extension of the scope of activity, which is associated with technical capabilities available to the licensee (e.g. intention to extend/limit the scope of a

licence/promise of a licence/promise of licence modification). In the first case, documents related to the legal status of the licence holder should be attached to the application, while in the second case, it is particularly important to demonstrate the technical capabilities and financial resources available to the licence holder.

The list of the necessary documents to be submitted in both cases is included in the further part of the Information Package.

IMPORTANT: It should be highlighted that pursuant to Article 37 item 2c of the Energy Law Act, **in the case of a change of the data referred to in Article 37 item 1 points 1 and 7 of the Act** (that is **the designation of the entity, its registered office or place of residence and their address, the number assigned in the Register of Entrepreneurs kept by the National Court Register**, provided that the entrepreneur has such a number, or a number of an equivalent register of the Member States of the European Union, Swiss Confederation, Member State of the European Free Trade Agreement (EFTA) – a party to the agreement on the European Economic Area or Turkey, **and the tax identification number - NIP**), the energy company **shall apply for a modification of the licence not later than within seven days** of the occurrence of these changes.

An application for an extension of the validity of the license should be submitted by the entrepreneur, according to Article 39 of the Energy Law Act, **no later than 18 months before its expiration** (the date of sending the application from a Polish postal facility of a designated operator under the Postal Law, or a postal facility of a postal service provider in another EU member state, Switzerland, or a member state of the European Free Trade Association (EFTA) that is a party to the Agreement on the European Economic Area, determines the compliance with this deadline). An extension of the license's validity is equivalent to the regulatory authority acknowledging that the entrepreneur continues to meet the conditions for performing licensed activities as specified by law. This involves checking whether the entrepreneur applying for the extension still meets the conditions specified in Article 33 of the Energy Law Act for conducting the licensed business and whether the formal and legal status at the time of the license issuance has not changed.

After the expiration of the abovementioned deadline for submitting the application for an extension of a licence (18 months), an entrepreneur intending to continue the activities covered by the licence shall apply for reissuing the licence. It is important to note that such a request should be submitted in time allowing to process it 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 on the Administrative Proceedings Code of 14 June 1960 [7], hereinafter referred to as the "Administrative Proceedings Code" or "The Code". Both when applying for licence extension and for reissuing of the licence, the documents required for submitting an application for issuing a licence shall be attached to it.

Preparing the Application

When preparing the application to grant a licence (promise of a licence or promise of licence modification), the applicant should be aware of the fact that the better and more complete the application is prepared (it contains all the necessary attachments, and the provided information is specified in a clear and comprehensive manner), the smoother the licensing process 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 (promise of a licence or

promise of a licence modification), and that there are no circumstances pertaining to the Applicant which justify refusal of granting the licence (promise of a licence or promise of a licence modification).

The application to grant a licence (or a promise of a licence or promise of licence modification, respectively – see Article 43 item 5 of the Energy Law Act) should contain in particular the following (Article 35 item 1 of the Energy Law Act):

1. designation of the applicant and its registered office, registered office of its branch in the territory of the Republic of Poland or place of residence and their address, and if proxies are appointed to perform the legal transactions on the applicant's behalf, it should also include their first and last names and their addresses;
2. specification of the subject matter and scope of the conducted activity for which the licence (promise of a licence or promise of a licence modification) is to be issued;
3. information about the applicant's previous activity, including its financial statements for the last three years if the entity is conducting business activity;
4. specification of the term for which the licence (promise of a licence or promise of a licence modification) is to be granted and specification of the start date of the activity;

A license is granted for a specified period, not shorter than 10 years and not longer than 50 years, unless the entrepreneur applies for a license for a shorter period (Article 36 of the Energy Law Act). A license promise is granted for a specified period not shorter than 6 months (Article 43 item 3 of the Energy Law Act).

5. specification of the resources available to the entity applying for the licence (promise of a licence or promise of a licence modification), for the purpose of ensuring a correct performance of the activity covered by the application;
6. number in the register of entrepreneurs kept by the National Court Register, provided that the entrepreneur has such a number, or a number of an equivalent register of the Member States of the European Union, Swiss Confederation, Member State of the European Free Trade Agreement (EFTA) – a party to the agreement on the European Economic Area or Turkey, and the tax identification number (NIP).

The President of URE shall deny granting a licence (promise of a licence or promise of licence modification) to an Applicant failing to meet the conditions prescribed by the law, pursuant to Article 35 item 3 of the Energy Law Act.

IMPORTANT: If the application for a license or a license promise, or for their modification, does not include all the necessary information or documents required by the Energy Law Act, which certify that the applicant meets the conditions specified by law for performing the specified business activities, the President of URE, acting under Article 35 item 2a of the Energy Law Act, will promptly call on the entrepreneur to complete the application within a specified period, not shorter than 21 days from the date of receipt of the call. According to Article 35 item 2b of the Energy Law Act, if the application for a license or its modification (or a license promise, in relation to Article 43 item 5 of the Energy Law Act) is not completed within the specified period in a manner that meets all the required legal conditions, **it will be left unprocessed**. In such a case, the applicant may submit a new application for the issuance/modification of the license (or license promise) using the documents previously submitted to the Office, provided they remain valid.

A detailed list of documents that must be attached to the application for a license (license promise/modification to the license) for the production of electricity in a renewable energy installation is provided later in this document.

A sample application for a license (license promise or promise of a modification in the license) is attached to this information.

Addressee of The Application

The entrepreneur's written application to grant a licence (promise of licence or a promise of a licence modification) should be sent to the appropriate Regional Branch of the Energy Regulatory Office according to the applicant's registered office, **with the exception** of applications concerning renewable energy source installations, or RES installations constituting CHP (combined heat and power) plants utilizing the following in the process of electricity generation:

- a) biomass or biomass with other fuels,
- b) bioliquids with other fuels,
- c) biogas with other fuels,
- d) agricultural biogas with other fuels,

which should be sent to the following address: Energy Regulatory Office, Department of Renewable Energy Sources, Towarowa 25a, 00-869 Warsaw.

The list of Regional Branches of the Energy Regulatory Office along with their territorial coverage is available on the URE website.: <http://www.ure.gov.pl>

Duration of The Procedure

The duration of the licensing process is primarily related to the completeness of the submitted application and the responsiveness of the applicant in providing the necessary documents. It also depends on the need to obtain an opinion from the relevant local government authority. Pursuant to Article 23 item 3 of the Energy Law Act, the opinion of the voivodship board with jurisdiction over the area is necessary in the matters related to granting and withdrawing licences (promise of licence or a promise of licence modification). **The President of URE has a statutory obligation to ask for an opinion, and the 14-day deadline for issuing it cannot be abridged.** It is advisable to submit applications well in advance of the intended commencement date of the licensed activity.

It should be kept in mind that pursuant to Article 35 items 2a and 2b of the Energy Law Act only submitting a complete application, that is containing all the required documents and information, results in initiating an administrative procedure for granting a licence.

If the application contains all the necessary exhibits or has been completed and the voivodship board issues a positive opinion or does not issue it by the statutory deadline of 14 days, the case will be examined within the deadline specified in the Code of Administrative Procedure. Pursuant to Article 30 item 1 of the Energy Law Act, the provisions of the Administrative Proceedings Code, which sets the deadlines for closing the case apply to the proceeding before the President of URE. Article 35 § 1 of the Code stipulates that the public administration authorities are obligated to handle the cases without unnecessary delay, and pursuant to § 3 of the aforementioned Article, a case that requires clarification should be handled no later than within one month, and very complicated cases – no later than within two months from the date of launching the proceeding. Nevertheless, it should be remembered that pursuant to Article 35 § 5 of the Code, the deadlines

set forth 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 written request may cause the proceeding to be handled in a correspondingly longer period of time.

Fees associated with licence (promise of licence or promise of licence modification) granting procedure

In accordance with Article 43aa of the Energy Law Act, a stamp fee is charged for the granting or modification of a license, as well as for the granting or modification of a license promise.

Pursuant to Article 6 item 1 point 3 of the Stamp Fee Act of 16 November 2006 [8], hereinafter referred to as the "Stamp Fee Act", the obligation to pay the stamp fee for issue of the licence (promise of licence or a promise of a licence modification) arises at the moment of **submitting the application** to issue the licence (promise of licence or a promise of a licence modification).

In accordance with Article 8 item 1 of the Stamp Fee Act, the stamp fee is to be paid at the cashier's office of the relevant tax authority or to its bank account.

The stamp fee rates, determined in an exhibit to the aforementioned Act, for the activities associated with the scope of actions of the President of the URE, are as follows:

- for a promise to issue a consent (promise of licence or a promise of a licence modification) – **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 or a promise of a licence modification) – **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 the National Court Register (KRS) confirming granting of a power-of-attorney or proxy), the stamp fee in the amount of **PLN 17 should be paid on each power of attorney or proxy under given administrative proceedings** (part IV of an exhibit to the Stamp Fee Act). 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 public or an authorized authority, authorizing to collect 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 Article 7 item 2 and 3 of the Stamp Fee Act.

Pursuant to Article 12 item 1 and 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 or a promise of a licence modification) – is the tax authority with geographic jurisdiction over the authority's seat; 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 for granting a licence (a promise of a licence or a promise of a licence modification) should be paid to the account of the Mayor of the capital city of Warsaw to the relevant account of Municipal Office of the Capital City of Warsaw, Taxpayer Service Centre, Obozowa 57, 01-161 Warsaw, account no.: 21 1030 1508 000 0005 5000 0070
- 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. For a submitted document confirming the granting of attorney or proxy and its copy, extract or copy, the stamp duty shall be paid to the account of the relevant local tax authority according to the place of submitting the document (URE's Central Office – see point a) or Branch Office of the URE 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 is tantamount to preventing performance of an official act, the entrepreneur will be summoned to make the relevant payment. If the stamp fee payment receipt is not provided despite the fact that the summons to send it was dispatched, this will be a premise for returning the application pursuant to Article 261 item 2 of the Code of Administrative Procedure.

In case of missing confirmation of the stamp fee payment receipt for the power-of-attorney or proxy, pursuant to Article 11 items 1 and 3 of the Stamp Fee Act, the President of URE shall 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 (confirmation of the transaction execution).

Stamp duty exemptions

Pursuant to Article 7 item 2 and 3 of the Stamp Fee Act, the following are exempt from stamp duty:

- budgetary units;
- local government units.

According to Article 3 of the Stamp Fee Act, the following are not subject to stamp duty: the performance of an official act, the issuance of a certificate, and the granting of a license permit, if, based on separate regulations, they are subject to other public law charges or are exempt from these charges.

The list of documents, which should be attached to the application to grant the licence for generating electricity in cogeneration

documents necessary to obtain a promise of licence or a promise of licence modification are marked with "P"

I. Documents Indicating Compliance with Legal and Organizational Conditions:

1. An excerpt from the register of entrepreneurs – National Court Register (KRS) obtained no earlier than 3 months before submission to the licensing authority¹⁾ (C or O)*; (P);
2. A certificate of assignment of the tax identification number (NIP) - if there is no information regarding the NIP in other submitted documents (C or O)*; (P);
3. In the case of an applicant who is a legal entity or an organizational unit without legal personality, or a foreign entrepreneur, or a foreign entrepreneur conducting business in the territory of Poland through a branch with a registered office in the territory of Poland, established under the conditions and principles specified in the Act on the Principles of Participation of Foreign Entrepreneurs and Other Foreign Persons in Economic Trade in the Territory of Poland:
 - a list of all persons authorized to represent the entrepreneur ²⁾, - as well as members of supervisory boards (O)*; (P);
 - a current certificate from the National Criminal Register on the criminal record of all persons authorized to represent the entrepreneur, as well as members of supervisory boards. ³⁾⁴⁾⁵⁾ (O)*; (P);
 - a current certificate from the National Criminal Register on the criminal record of the enterprise as a collective entity⁴⁾ (O)*; (P);
4. In the case of entrepreneurs who are natural persons – a current certificate from the National Criminal Register on the criminal record of the entrepreneur ³⁾⁴⁾⁵⁾ (O)*; (P);
5. In the case of partnerships – a current certificate from the National Criminal Register on the criminal record of all partners³⁾⁴⁾⁵⁾ (O)*; (P);
6. In the case of partnerships – the partnership agreement or articles of association (C)*; (P);
7. A list of all entities that have significant influence over the applicant or exercise control or joint control over the applicant as defined in Article 3 item 1 points 34, 35 and 36 letter a, b, e, and f of the Accounting Act, along with an indication of which type of relationship exists between the entrepreneur and each entity, as well as the basis for their inclusion in the list (O)*; (P);
8. A current certificate from the National Criminal Register on the criminal record of the entities referred to in point 7⁴⁾⁵⁾ (O)*; (P);

In the case of an entity registered abroad or not being a citizen of the Republic of Poland, the relevant information issued by the competent authority of the country of registration or citizenship of the respective entity must also be submitted, along with a certified translation into Polish by a sworn translator or from the National Criminal Register within the ECRIS

¹⁾ This applies to entrepreneurs who are required by law to obtain an entry in the National Court Register (KRS).

²⁾ This applies to people authorized to represent the entrepreneur in accordance with the Commercial Companies Code.

³⁾ In the case where the entrepreneur, partner, proxy, member of the management board, or supervisory board is not a Polish citizen, the relevant information issued by the competent authority of the country of which the aforementioned person is a citizen must also be submitted, along with a certified translation into Polish by a sworn translator.

⁴⁾ All of the aforementioned documents must be obtained no earlier than 3 months before submission to the licensing authority.

⁵⁾ We would like to draw attention to the information included later in the Package regarding the confirmation of the compliance of submitted foreign documents with the law of the place where they were issued.

- system;
9. A statement from the entrepreneur that no application for bankruptcy has been filed against them and that they are not in liquidation (in the case of civil law partnerships, from each partner) (O)*; (P);
 10. A statement from the entrepreneur that they have not been removed from the register of regulated activities in the past 3 years due to a decision prohibiting the applicant from conducting activities covered by the entry, due to:
 - a) submitting a statement regarding compliance with the legal requirements for conducting this activity that is inconsistent with the actual state, or
 - b) failing to rectify violations of the legal requirements for conducting this activity within the timeframe set by the authority, or
 - c) gross violation of the legal requirements for conducting this activity; (O)*; (P);
 11. A document confirming the registration of the entrepreneur as a taxpayer for goods and services tax (O)*; (P)**;
 12. A certificate of assignment of the excise number issued by the competent customs office, if the entrepreneur has such a number (C or O)*; (P);
 13. A statement from the entrepreneur (in the case of civil law partnerships, from each partner) and statements from the persons and members referred to in Article 33 item 3c in connection with paragraph 3a of the Energy Law Act confirming the absence of grounds for suspending the proceedings under Article 33 item 3a of this law, which states that the President of the Energy Regulatory Office suspends proceedings if a resolution has been issued against the entrepreneur or the aforementioned persons regarding allegations of committing a crime or fiscal offense related to the conducted business activity (O)*; (P);
 14. A statement from the entrepreneur that all individuals employed in the operation of the networks, installations, and devices used for conducting the licensed activity hold the required qualifications certificates based on the provisions of the Energy Law Act, as well as qualifications certificates issued under other regulations authorizing them to operate these networks, installations, and devices (O)*; (P);
 15. Information from the entrepreneur about the networks, devices, and installations specified in the Regulation of the Minister of Climate and Environment dated July 1, 2022, regarding the detailed rules for confirming qualifications held by individuals engaged in the operation of devices, installations, and networks that will be used for conducting the activities covered by the application, as well as the number of individuals employed in their operation, along with the numbers of their qualifications certificates (in the case of civil law partnerships, from each partner) – in accordance with the table attached to the Information Package (O)*;
 16. A technical and economic description of the proposed investment for which work will commence after the entry into force of the Act on the Promotion of Electricity from High-Efficiency Cogeneration (i.e., after January 25, 2019), including the start date of the investment (commencement of construction work, first binding commitment to order equipment, or other binding commitment making the investment irreversible), and an explanation of whether the entrepreneur is/will be benefiting from funding/grants for this investment; this document is required only for applications for a promise of license/promise of license modification for RES installations constituting CHP units (O)*; (P)

17. In the case of actions performed by an attorney, the original or a copy of the power of attorney to perform legal acts on behalf of the Applicant, along with proof of payment of the required stamp duty in the amount of 17 PLN (C or O)*; (P);
18. Proof of payment of the required stamp duty for the issuance of the license in the amount of 616 PLN or for the issuance of a license promise or license modification promise in the amount of 98 PLN (O)*; (P) (the fee does not apply to entities exempt from this fee as specified in the section: Stamp duty exemptions).

II. Documents indicating that technical conditions ensuring proper business operations are met:

1. Documents confirming the legal title of the entrepreneur to the facilities and installations necessary to conduct the activity covered by the license (e.g., notarial deed, land registry extract, land register excerpt, lease agreements, lending agreements, purchase invoices for equipment used for electricity production, handover/acceptance protocol of production equipment, etc.) (C or O)*;
2. Description of the parameters and technical condition of the equipment used for electricity generation, specifying the type of fuel used (C or O)*; (P);
3. Simplified technological diagram of the power plant/combined heat and power (CHP) plant for determining the number of cogeneration units; document **required only for CHP units** (C or O)*; (P);
4. Decision on land development conditions and land use, or decision on the location of a public purpose investment (or a document confirming the possibility of locating the planned investment on a given site - in the case of a license promise or license modification promise) (C or O)*; (P);
5. Decision granting a building permit for devices, installations, and networks (C or O)*;
6. Documents informing about the completion of construction and the commencement of operation of the facility (depending on the conditions specified in the building permit):
 - a) Permit for use (C or O)*;
 - b) Notice to the relevant building supervision authority about the completion of construction (submitted at least 14 days before the intended date of commencement of use). If the relevant building supervision authority does not object to the investment, after 14 days from the date of delivery of the aforementioned notification, a statement informing about this should be included in the case files (C or O)*;
 - c) If it is not possible to present the permit for use or the building permit along with the notification of completion of construction, the entrepreneur shall present:
 - Decision on building and land development conditions, or
 - Decision on the location of a public purpose investment, or
 - Information on the compliance of the investment with the local spatial development plan,along with information obtained from the architectural and building administration

- authority, building supervision authority, or municipality about the date of construction of the facility and the inability to obtain copies of the aforementioned permits or information about their issuance, as well as information from the building authority confirming that the subject facility is not an unauthorized construction and meets the requirements set by law (C or O)*;
7. Decisions of the Office of Technical Inspection regarding the approval for the operation of generation devices used for producing electrical energy, along with technical inspection protocols attached to the decisions (if required) (C or O)*;
 8. Decision granting an integrated permit, and if not required: permit for the release of pollutants into the air, permit for waste generation (C or O)*;
 9. Documents confirming the installed electrical capacity of the generating unit, particularly (C or O)*:
 - a) Photos of the nameplates of generators, photovoltaic modules, or fuel cells; or
 - b) Photo of the nameplate of the generator set in the case of installations using biogas or agricultural biogas; or
 - c) Documentation specifying the rated active power of the generator set determined by an entity accredited by the Polish Centre for Accreditation, in the case of installations using biogas or agricultural biogas; or
 - d) Technical and operational documentation of electric generators (section on technical parameters);
 10. Documents issued by the power system operator to whose network the renewable energy source installation is connected:
 - a) Documents specifying the technical conditions for connection to the power grid, i.e., grid connection conditions or connection agreement (C or O)*;
 - b) Technical inspection, approval, and acceptance protocols for energy devices (K or O)*;
 - c) Protocol on the correctness of operation of metering and settlement systems (i.e., protocol for detailed technical service assignment – OTS) (C or O)*;
 11. Power output scheme including:
 - Indication of the measurement points for the amount of generated electrical energy,
 - Indication of the demarcation of ownership of the network, devices, and installations belonging to the Entrepreneur and the power system operator;
 - Indication of all generating devices (including marked cogeneration units **if applicable**) belonging to the Applicant or a third party, from which energy is or can be transmitted through the given connection.
 12. Precise characterization of the type of biomass/biogas planned for use in the Entrepreneur's generating unit, including the characteristic parameters (type, form, and origin, and in the case of biogas – also specifying the type and composition of substrates and describing the acquisition process/type of fermentation, method of acquisition) (C or O)*; (P);
 13. Sample (preliminary) contracts for the purchase of a given type of biomass in the case of units using biomass (C or O)*; (P);
 14. Detailed and clear schematic of the fuel supply chain, including any auxiliary and sustaining

- combustion fuels (C or O)*; (P);
15. Results of operational and performance tests (approximately 3 pages) confirming the feasibility of using the specified type of fuel (fuel group) in the renewable energy installation owned by the Entrepreneur (C or O)*;
 16. Manufacturer's opinion on the generating devices' capability to burn the specified type of fuel (fuel group), including information on any auxiliary and sustaining combustion fuels used (C or O)*;
 17. Information on the fuel used for generating electricity (*template provided in the package*) (O)*; (P);
 18. Information on the use or non-use of auxiliary fuel in the renewable energy installation (*templates provided in the package*) (O)*; (P);
 19. Document prepared by an independent third party - with expertise and experience in verifying generating units - containing confirmation that the technical safeguards applied prevent the generation of electricity from auxiliary fuel. The opinion should be based on an audit of the installation - in the case of a dedicated biomass combustion installation using auxiliary fuel (O)*;
 20. "Authentication Documentation. Installation for production and procedures for settlement of energy from renewable sources" - 2 copies (O)*;
 21. Opinion on the prepared authentication documentation (prepared by an independent third party based on an audit of the installation) - 1 copy (O)*.

The documents indicated in points 12-19 concern fuel units, while the documents specified in points 20-21 generally pertain to renewable energy installations that constitute:

- a multi-fuel combustion installation,
- a thermal waste conversion installation,
- a hybrid system with an installed electrical capacity above 20 MW,
- a dedicated biomass combustion installation with an installed electrical capacity above 20 MW.

III. Documents confirming that the applicant has financial resources ensuring the proper conduct of the activity or has the ability to obtain them.

1. Summary of planned annual revenues and costs for the activities covered by the license application, for a minimum period of three full calendar years (financing schedule for the investment along with the sources of financing – in the case of a promise of license) (O)*; (P);
2. Financial statements for the last three years (annual PIT returns for individuals or partners in civil law partnerships, balance sheets and profit and loss accounts for other entities), and if the entrepreneur has been conducting business for a period shorter than three years - the above-mentioned documents from the date of commencement of business (C or O)*; (P);
3. Other documents confirming the possession or ability to obtain sufficient financial resources to properly perform the licensed activity (e.g., bank guarantees, insurance

- guarantees, guarantee agreements, loan agreements, loan agreements, etc.), (C or O)*; (P);
4. Current certificates from the competent tax office and customs office, obtained no earlier than 3 months before submission to the licensing authority, stating that the entrepreneur has no arrears in obligations to the state budget, or stating the status of any arrears (in the case of civil law partnerships, it is necessary to provide certificates separately for each partner and for the partnership), also including information on:
 - a) Ongoing enforcement proceedings in administration and cases of tax crimes or tax offenses,
 - b) Titles and periods from which any arrears originate (C or O)*; (P);
 5. Current certificate from the competent branch of the Social Insurance Institution, obtained no earlier than 3 months before submission to the licensing authority, stating that the entrepreneur has no arrears in social insurance contributions or that they are not listed in the register of contribution payers (in the case of running a business for which there was no obligation to register with the Social Insurance Institution); in the case of civil law partnerships, it is necessary to provide certificates from the Social Insurance Institution separately for each partner and for the partnership (C or O)*; (P);
 6. Current certificate from the bank where the entrepreneur's primary account is held, specifying the size of the turnovers, the entrepreneur's payment and credit capacity, including information on the credits granted to the entrepreneur and whether the account is free from enforcement titles, obtained no earlier than 3 months before submission to the licensing authority (C lub O)*; (P).

Additional notes for Entrepreneurs having their registered office or place of residence in member states of the European Union, the Swiss Confederation, or Member States of the European Free Trade Association (EFTA) – parties to the agreement on the European Economic Area or Turkey, applying for a license:

1. Entrepreneurs from EU Member States, the Swiss Confederation, EFTA member states (parties to the European Economic Area Agreement), or Turkey, can conduct licensed activities in Poland directly, i.e., without establishing a branch. In such cases, these entrepreneurs should present an excerpt from the relevant equivalent of the Polish National Court Register in the country of the company's registration (of course, if the planned activity is to be conducted directly without establishing a branch);
2. Information regarding the criminal record of persons authorized to represent the applicant and members of the supervisory board should come from the Polish National Criminal Register and the equivalent register in the country of the company's registration. This information, along with a translation by a sworn translator into Polish, must be obtained no earlier than 3 months before submitting to the licensing authority (O)* (P);
3. If the aforementioned persons are not citizens of the country of the company's registration, relevant information issued by the competent authorities of the countries of which these persons are citizens should also be sent. This information, along with a translation by a sworn translator into Polish, must be obtained no earlier than 3 months before submission to the licensing authority (O)* (P);
4. Information regarding the criminal record of the company (as a collective entity) should come from the Polish National Criminal Register and the equivalent register in the country of the company's registration (if such registers exist). This information, along with a translation by a sworn translator into Polish, must be obtained no earlier than 3 months before submission to the licensing authority (O)* (P);
5. Information regarding the criminal record of entities that have significant influence over the applicant, or exercise control or co-control over the applicant in the sense of Article 3, item 1, Points 34, 35, and Point 36 letter a, b, e, and f of the Accounting Act, should come from the Polish National Criminal Register, the equivalent register in the country of the applicant's registration (if such registers exist), and the equivalent register in the country of registration or citizenship of the aforementioned entities. This information, along with a translation by a sworn translator into Polish, must be obtained no earlier than 3 months before submission to the licensing authority (O)* (P);
6. The decision of the tax authority regarding the assignment of a tax identification number may come from the country of the company's registration (a document assigning a NIP number by the Polish tax authority will also be accepted) (C)* (P);
7. The document confirming the registration of the entrepreneur as a taxpayer for intra-Community transactions (VAT UE) may come from the country of the company's registration or the entrepreneur may present a document confirming the registration for VAT purposes in Poland (C)* (P);
8. Compliance of the submitted documents with the law of the place of their issuance should be confirmed in the manner specified in Article 3, Sentence 1 of the Hague Convention of October

- 5, 1961, Abolishing the Requirement of Legalization for Foreign Public Documents, i.e., with an apostille clause. According to Article 3, Sentence 2 of the aforementioned Convention, the attachment of an apostille cannot be required when (...) an agreement between two or more Contracting States has abolished or simplified the legalization or exempted such a document from legalization;
9. Documents submitted in a foreign language must be translated into Polish by a sworn translator. All pages of the submitted documentation must be signed by persons authorized to represent the entrepreneur;
 10. An entrepreneur who does not have a place of residence or habitual residence, or headquarters in Poland or another EU Member State, if they have not appointed a representative residing in the country to handle the matter and do not act through the Polish consul, is obliged to designate a representative for service of process in the country, unless service is made by registered electronic delivery. In the absence of the designation of a representative for service of process, documents intended for this entrepreneur will be left in the case files with the effect of delivery in accordance with Article 40 § 5 of the Code of Administrative Procedure.

Designation of the document with the letter "O": documents submitted to Energy Regulatory Office (URE) must be originals or copies certified as true copies in accordance with Article 76a § 2 of the Code of Administrative Procedure by a notary public or by a proxy acting in the case who is an attorney, legal adviser, patent attorney, or tax adviser, or officially certified copies by the competent authority or entity in accordance with Article 76a § 1 of the Code.

Designation of the document with the letter "C": copies of documents submitted to Energy Regulatory Office (URE), according to Article 75 § 1 of the Code, may serve as evidence of what is stated in them after being signed by the Entrepreneur or persons authorized to represent them (on each page of the document), provided that such evidence will be assessed in light of all the collected evidence, and in case of doubt, the President of URE may request the party to present the original document or a copy certified in the manner specified in Article 76a § 1 or 2 of the Code

Other Important Information

- I. The catalog of documents included in this package is not exhaustive, meaning that the individual factual and formal-legal situation of the applicant may necessitate the President of URE undertaking additional clarifying actions during the ongoing procedure for granting/changing/extending a license (license promise or license modification promise) for electricity production. This may include requesting the entrepreneur to provide additional explanations and documents proving compliance with the legal requirements for conducting business in the field of electricity

production. A sample application form and a list of attachments are available on the URE website.

Obtaining a license (license promise or license modification promise) for electricity production does not exempt from the obligation to obtain other licenses and permits required under separate regulations. It should be noted that an energy enterprise operating a cogeneration unit with a total installed thermal capacity exceeding 5 MW should apply to the President of URE for a license to produce heat.

- II.** In the case of submitting an application for a license or license modification by an entrepreneur who holds a valid license promise or license modification promise, there will be a need to submit documents that were not required when applying for the license promise or license modification promise and to resubmit those documents whose validity has expired.
- III.** According to Article 37 item 2c of the Energy Law Act, in the event of changes in the data referred to in Article 37 item 1 (entity and its registered office or place of residence and address) and Article 37 item 1 and 7 (number in the register of entrepreneurs in the National Court Register, if the entrepreneur has such a number, or the number of an equivalent register of EU Member States, the Swiss Confederation, a member state of the European Free Trade Association (EFTA) – parties to the Agreement on the European Economic Area or Turkey, and the tax identification number – NIP), the energy enterprise is required to submit an application for a license modification no later than 7 days from the date of these changes.

According to Article 41 item 4 point 3 of the Energy Law Act, the President of URE may revoke the license or change its scope if the obligation referred to in Article 37 item 2c is not fulfilled, in the scope of Article 37 item 1 points 1 and 7 of the Energy Law Act.

According to Article 56 item 1 point 49 of the Energy Law Act, a financial penalty is imposed on anyone who fails to fulfill the obligation referred to in Article 37 item 2c of this law.

- IV.** Additionally, it is necessary to observe the conditions for conducting licensed activities specified in the license granted to the entrepreneur, including obligations arising from the operation of support systems for electricity production in renewable energy installations, as well as reporting and providing information.

Annual License fees

Entities granted an energy license are obligated to calculate and pay an annual fee to the state budget, which is part of the operational costs of their business. This obligation is derived from Article 34 item 1 of the Energy Law Act and the executive regulation issued by the Council of Ministers [9] based on Article 34 item 6 of this law.

According to Article 34 item 7 of the Energy Law Act, an energy enterprise producing electricity in a renewable energy installation with a total installed capacity not exceeding 5 MW is exempt from the license fee for the production of energy in that installation.

The obligation to pay the license fee arises on the last day of the calendar year in which the energy enterprise achieved revenue from each type of activity covered by the license that is greater than or equal to zero (Article 34 item 4 of the Energy Law Act). The fee must be paid by April 15 of the year following the year in which the fee obligation arose (§ 4 of the Council of Ministers' regulation) to the bank account of the Energy Regulatory Office.

This obligation also applies to entities whose license has expired or been revoked during the year in which the fee obligation arose.

The license fee for each type of licensed activity cannot be less than PLN 1,000 and cannot exceed PLN 2,500,000 (Article 34 item 3 of the Energy Law Act).

Conducting Business Activities Without a License

According to Article 57g item 1 of the Energy Law Act, anyone conducting business activities in the field of electricity generation without the required license is subject to a fine of up to 5,000,000 PLN or imprisonment for a term ranging from 6 months to 5 years.

Additionally, operating without the required license or registration in the regulated activities registry is punishable under Article 601 of the Act of May 20, 1971 – the Offenses Code, by restriction of freedom or a fine.

Information on Processed Personal Data

In accordance with Regulation (EU) 2016/679 of the European Parliament and Council of April 27, 2016, on the protection of individuals with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation or GDPR), we hereby inform you of the following:

1. Personal data collected by the President of the Energy Regulatory Office (URE) is processed by the President of URE, located at 00-869 Warsaw, Towarowa 25a, who is the data controller.
2. Personal data is processed based on Article 6 item 1b,c,e of the GDPR, as well as other laws where the tasks and obligations of the President of URE are specified, including the Energy Law Act, the Renewable Energy Sources Act, the Bio-components and Liquid Biofuels Act, the Energy Efficiency Act, the Capacity Market Act, the Act on Stockpiling of Petroleum Products, Natural Gas, and the Principles of Action in Emergency Situations Affecting Fuel Security of the State and Disruptions in the Oil Market, and the Electromobility and Alternative Fuels Act.

3. Personal data is processed to fulfill the statutory duties of the President of URE.
4. Personal data in connection with the fulfillment of statutory obligations by the President of the Energy Regulatory Office will not be transferred to countries outside the European Union or to international organizations.
5. In the case of providing the personal data of the designated contact person, the information obligation referred to in Article 14 GDPR, regarding the processing and scope of processing by the President of the Energy Regulatory Office of the personal data of this person, is fulfilled by the applicant, informing that the full content of the information clause is available on the website of the Energy Regulatory Office.
6. Personal data will be stored for the period resulting from the **Uniform Material List of Files** and the Office's Archival Instructions in force at the Energy Regulatory Office.
7. The natural person has the right to request from the controller access to their personal data, rectification of their personal data, and the right to lodge a complaint with the national supervisory authority - the President of the Office for Personal Data Protection.
8. The recipients of the personal data will only be entities authorized to obtain personal data based on legal provisions.
9. Personal data will not be subject to profiling (automated processing involving the use of personal data to evaluate certain personal aspects of a natural person).
10. In matters related to personal data protection, please contact the Data Protection Officer via email at iod@ure.gov.pl or in writing by sending correspondence to the address: Energy Regulatory Office, Towarowa 25a, 00-869 Warsaw, with the note: "Data Protection Officer".
11. Providing personal data is mandatory when it results from the aforementioned legal bases.

List of Legal Acts

- [1] Energy Law Act of 10 April 1997 (Journal of Laws of 2024, item 266),
- [2] Act on Renewable Energy Sources of 20 February 2015 (Journal of Laws of 2023, item 1436, as amended),
- [3] Act on promoting electricity from highly efficient cogeneration of 14 December 2018 (Journal of Laws of 2024, item 639),
- [4] Act on the preparation and realization of investments in nuclear power facilities and accompanying investments of 29 June 2011 (Journal of Laws of 2024 item 412),
- [5] Accounting Act of 29 September 1994 (Journal of Laws of 2023 item 120, as amended),
- [6] Act of March 6, 2018 on the principles of participation of foreign entrepreneurs and other foreign persons in economic trade in the territory of Poland (Journal of Laws of 2022, item 470),
- [7] Act of 14 June 1960 entitled the Administrative Proceedings Code (Journal of Laws of 2024, item 572),
- [8] Stamp Fee Act of 16 November 2006 (Journal of Laws of 2023, item 2111),
- [9] Ordinance of the Council of Ministers of 12 October 2021 on the licence fee 12 (Journal of Laws of 2021, item 1938),
- [10] Code of Petty Offences Act of 20 May 1971 (Journal of Laws of 2023, item 2119).

Other Legal Acts Related to the Licensing of Business Activities

- [a] Regulation of the Minister of Climate and Environment of July 1, 2022, on the Detailed Principles for Confirming the Qualifications of Persons Operating Devices, Installations, and Networks (Journal of Laws of 2022, item 1392),
- [b] Regulation of the Minister of Climate and Environment of March 22, 2023, on the Detailed Conditions for the Operation of the Power System (Journal of Laws of 2023, item 819),
- [c] Regulation of the Minister of Environment of June 8, 2016, on the Technical Conditions for Qualifying Parts of Energy Recovered from Thermal Waste Processing (Journal of Laws of 2016, item 847),
- [d] Regulation of the Minister of Climate and Environment of March 18, 2024, on the Requirements for Calculating, Measuring, and Recording the Amount of Electricity, Heat, and Cold Produced in Renewable Energy Installations (Journal of Laws of 2024, item 435).