Amendment to the Energy Law Act entered into force

The amended Energy Law Act entered into force on 11 September. This amendment is to stimulate the further development of competition in the energy markets.

Towards a more competitive gas market

In the amended Act, the new regulations were introduced that allow for the development of a competitive gas market in Poland. The most important change is introducing the obligation to trade gaseous fuels through commodity exchange (so-called “exchange obligation”). The exchange obligation would ensure transparent rules of trading in natural gas and will allow for changing the structure of the gas market from a monopolised market towards a more competitive one.

Moreover, a new Article 49b has been added to the Energy Law Act. This Article obliges energy companies which trade in gaseous fuels to sell no less that 55% of natural gas fed into the gas transmission network on commodity exchanges or on the market organised by an entity that manages the regulated market on the territory of the Republic of Poland. Natural gas constituting obligatory reserves, gas transited through Poland, gas extracted on the territory of Poland and sold abroad, as well as natural gas used by gas system operators to carry out their tasks is exempted from the aforesaid obligation. Moreover, entities that import natural gas to Poland on a small scale, i.e. have the right to transmission capacity lower than 10% of the total technical capacity of all system entry points listed in Article 49b, are also excluded from the “exchange obligation”.

Having in mind the concentrated structure of the gas market, the obligation to sell gas on the commodity exchange will be introduced gradually. The volume of gas covered by the obligation will be increased in the coming years in the following manner: 30% from the date of the act effective date, 40% - from 1 January 2014 and 55% from 1 January 2015.

According to the Road Map of Natural Gas Prices Liberalization drawn up by the President of ERO, introduction of the obligation to sell 30% of gas via commodity exchange will result in deregulation of gas prices for largest consumers. The gas demand of these customers constitutes about 30% of the total domestic gas consumption. The timeline for price
deregulation and related terms and conditions are described in detail in the Statement of
the President of the Energy Regulatory Office (no. 21/2013) on the timeline for exemption
of energy companies that hold a licence for trading in gaseous fuels or foreign trade in
natural gas, from an obligation to submit, for approval, tariffs for gaseous fuels with respect
to the sale of methane-rich natural gas to end users other than households.

It should be emphasised that the introduction of an exchange obligation will allow for
creating the wholesale natural gas market with high transparency of transactions
concluded on the commodity exchange. Thanks to that, entities that import natural gas or
extract it from Polish deposits will offer gas to all interested market participants on non-
discriminatory rules. The new regulations also amend the Act on commodity exchanges of
26 October 2000. In particular, the potential cost of intermediaries in concluding
transactions on the exchange was decreased. All energy companies, including those
involved in trading in gaseous fuels, will have a possibility to become a commodity
exchange member and conclude transactions on their own account and not through
brokerage houses.

Strengthening consumer rights

Offering gas on the commodity exchange strengthens the customers’ position on the
market, giving them an opportunity to exercise their right to switch their supplier, as
stipulated in Article 4j of the Act of 26 July 2013 on the amendments to the Energy Law Act
and certain other acts. Pursuant to the new law, by submitting a written declaration to the
company, the end user may terminate the agreement, on the basis of which gaseous fuels
are provided by the energy company, without incurring any costs and compensations other
than those arising from the agreement.

Moreover, to strengthen consumer rights on the energy markets, the amended act
determines in detail the elements of the sale agreement and the common service
agreement, concluded with household customer of electricity or gas. The aforesaid
agreements should include, among others, information about the customer’s rights such as
method of filing a complaint and dispute settlement, information on possibilities of
obtaining help in case of devices, installation or network breakdown.

In general, in the new law much attention has been paid to the issue of strengthening
customers’ rights. It has been emphasised that information addressed to customers must
be formulated clearly and precisely, both when concluding a transaction and when the
service is provided. The manner in which the gas and electricity supplier should inform
consumers about prices or rates increase (determined in approved tariffs) were specified.
Moreover, methods of controlling the legality of fuels or energy use and metering and
billing systems, as well as abiding by the agreements concluded and settlements
correctness, has been also detailed. This change is very important for increasing the safety
of the control process and its results.

According to the new law the electricity and gas suppliers are obliged to provide customers
with a copy of energy consumer’s rights. This document, drawn up by the regulator in
cooperation with the President of the Office of Competition and Consumer Protection on the basis of the European Commission guidelines, comprises practical information on the rights of gas and electricity customers. A copy of these rights will be published by the regulator in the ERO Public Information Bulletin.

The new regulations will also facilitate supplier switching. TSO and DSOs are obliged to allow the gas and electricity customer to switch a supplier, no later than within 21 days after the date of informing the proper operator about concluding a sale agreement or a common service agreement with a new supplier. The previous supplier shall make all necessary settlements with the customer, who exercised his/her right to switch a supplier, no later than within 42 days after the switching.

Another important change that will secure consumers’ rights is introduced in Article 6c. This Article describes a detailed procedure of disconnecting gas or electricity or heat supply to a household consumer when a complaint has been filed or is being settled, or when a claim has been filed to the arbitration court. Pursuant to the new regulation, in case when the household customer has filed a complaint to an energy company about gas or electricity supply (no later than within 14 days after receiving an information about upcoming disconnection), the energy company cannot disconnect the supply until the complaint is settled. If the energy company fails to investigate the complaint within 14 days after its submission, the complaint is deemed admitted.

Moreover, if the complaint was dismissed and the customer, within 14 days after receiving information about this fact, goes to the permanent consumer arbitration court to settle the dispute out, the energy company cannot disconnect the supply until the court’s decision is issued. Furthermore, the energy company must reconnect the gas or electricity supply to the customer who filed the complaint about supply disconnection, within 3 days after receiving the complaint and continue the supply until the complaint is resolved. The energy company is obliged to continue the gas or electricity supply also when the customer applied to the regulator for settling the dispute on the complaint dismissal by the aforesaid company. Supply shall be continued until the regulator’s decision is issued. However, if the control confirms that the installation present at the customer’s property poses a direct threat to life, health or environment, then the energy company has the right to disconnect the supply of gas, electricity or heat. It is also applicable when the arbitration court makes a judgement to the disadvantage of the customer.

Support for vulnerable customers

The support system for vulnerable customers is another important issue that has been introduced into the amended law. Hence, one of the key conditions necessary for making a decision on exemption of electricity suppliers from the obligation to submit, for approval, tariffs for households, was met (the conditions was stipulated in the Road map of prices liberalization for all electricity consumers prepared by ERO). It is worth mentioning that the definition of “vulnerable customers” is for the first time introduced in this amended law. In the case of electricity, vulnerable are persons who: were granted housing benefit, are a party to common service agreement or sale agreement concluded with an energy company
and live in the place, to which electricity is supplied. As regards gas, customer is recognized as vulnerable if he/she: was given fuel allowance and is a party to common service agreement or gas sale agreement concluded with an energy company and live in the place, to which gas is supplied. Moreover, the regulations obliges distribution companies to install, upon a request of a vulnerable customer, a prepayment metering and billing system.

Within the protection system a vulnerable consumer of electricity is granted an energy allowance which monthly amounts to 1/12 of the annual energy allowance published by the minister in charge of economy. Such an allowance is granted by a commune head, mayor or town president through a decision and at the customer’s request.

Energy “prosumers”

The new Energy Law Act is an important step towards the development of prosumer oriented energy market. The amended regulations are important for increasing the share of electricity generated from renewable energy sources in the national energy mix as natural persons, who are not entrepreneurs within the meaning of the Act on Freedom of Economic Activity, were allowed to sell electricity produced in RES installations they own. At the same time connection to the grid of such sources was facilitated. Moreover, definitions such as “micro-installation” and “small installation” were introduced into the amended law.

It is also worth noting that a new chapter was added to the Act. This chapter – 3a - is devoted, among other things, to the national action plan on electricity generated from renewable energy sources until 2020. The draft plan is to be drawn up by the Minister of Economy, on the basis of objective and transparent rules and taking into account the national energy policy.

Additionally, pursuant to the new Energy law, the “new group” of entities defined as industrial customers was enabled to fulfil the obligation referred to in Article 9a, items 1 and 8 of the Energy Law Act (i.e. the obligation to obtain and submit for redeeming the certificates of origin for electricity from RES and certificates of origin for electricity from congregation, or paying a substitution fee), according to the rules prescribed in amended law.

Moreover, this act introduces a system of guarantees of origin, i.e. documents that confirm that a given volume of electricity fed into distribution or transmission network was generated from RES.

The amended Energy Law Act implements the EU regulations on e.g. common rules for the internal energy market and promotion of electricity generated from renewable sources.

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