

# Energy Regulatory Office

<https://www.ure.gov.pl/en/communication/news/358,The-long-awaited-amendment-to-the-Energy-Law-comes-into-force-today-What-are-the.html>  
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## The long-awaited amendment to the Energy Law comes into force today. What are the implications of the new rules for the market and the regulator?

The Act introduces a number of market-oriented and pro-consumer solutions that will make the Polish energy market more competitive and open to the changes that the energy industry is undergoing at the time of transformation.

The Act of 28 July 2023 amending the Energy Law and certain other acts<sup>[1]</sup> which implements a number of European acts in the field of energy into the Polish legal order, including the so-called Market Directive<sup>[2]</sup>, enters into force on September 7. Also the Renewable Energy Sources Act is going to be amended. The bulk of the regulations take effect as of today but some provisions concerning the broadening of the powers of the President of URE and those related to the need for the operation of the Central Energy Market Information System (CSIRE) will become effective at later dates.

### Direct line connecting power consumers to a generation source

A direct line allows electricity generators and consumers to be connected while bypassing the distribution network. This will enable greater use of renewable energy sources by industrial consumers, which in turn, by reducing energy costs, should have a positive impact on their competitiveness.

*"This solution will encourage the emergence of local energy sources and responds to the expectations of large industrial customers, for whom it is important to be able to produce renewable energy in the immediate vicinity of their plant and to secure the consumption of such power volumes. This results in a lower carbon footprint as the direct line will support the decarbonisation of the economy and respond to the expectations of large business operators. This solution will enable direct transmission of electricity from a RES installation located in immediate vicinity of the company's site, without a need for connection to the national power grid. Thereby, the energy demand is going to be met locally"* points out Rafał Gawin, President of ERO.

Until now, the direct line was a solution available only to energy consumers permanently disconnected from the National Power System (NPS). In practice, this made such an option hardly feasible. As of September 7, the direct line<sup>[3]</sup> will also be available to those who are and will continue to be connected to the NPS.

Under the new regulations, the approval from the President of URE will not be needed to start the operation of a direct line. The requirements will be limited to entering such lines on the relevant list. The regulator will make the entry on the basis of the application of the entity applying for the construction of the direct line. The notification must include information on the parameters of the line, as well as an expert assessment on the impact of the line itself, or the equipment, installations or networks connected to it, on the electricity system, which stems from the need to ensure the operational safety of the National Power System.

The users of direct lines will pay the so-called solidarity charge to cover fixed costs not reflected in other components of the tariff, the quality charge or the capacity charge.

#### Comparison engine

The amendment to the Act provides for the development of a comparison engine for electricity suppliers' offers for household consumers and micro enterprises<sup>[4]</sup>. This will enable consumers to compare all the electricity offers available on the market and analyse their advantages and disadvantages in one place, *online*, free of charge.

*“When deciding to switch the supplier, customers are primarily concerned with the differences between and the content of the offers of individual suppliers. A comparison engine operated by an independent market regulator will provide all electricity consumers with easy access to comprehensive and clear information.”*  
says Rafał Gawin.

In order to ensure that the offers of electricity suppliers published in the comparison engine are up-to-date and reflect the actual scope of provided services, the legislator has obliged suppliers to send information about changes to their offers within seven days of their introduction<sup>[5]</sup>, and electricity suppliers will face penalties for evading this obligation<sup>[6]</sup>.

Citizen energy communities (CECs) - a way to reducing energy costs

Under the new legislation, Citizen Energy Communities (CECs) will be allowed to operate across the country from August 2024. These are entities with legal capacity, whose activities are based on voluntary and open participation with decision-making and control powers being vested in members, shareholders or partners who may be exclusively natural persons, local authorities, micro or small enterprises. The main objective of the CECs is to provide environmental, economic or social benefits to their members, shareholders, partners or the areas in which the Community will operate.

The law regulates the rights and obligations of such entities. The objects of a CEC may include the generation, distribution, sale, consumption, aggregation or storage of energy, as well as the provision of energy efficiency services, charging of electric vehicles or the provision of other energy services to its members or shareholders. At the same time, a customer joining the CEC retains full consumer rights.

The creation of a legal framework for the operation of citizen energy communities is intended to enable the direct participation by power end users in the generation and sharing of electricity with other consumers. The aim of introducing this solution is to provide affordable electricity to community members and to increase energy efficiency at the household level by reducing electricity consumption and lowering the price of electricity supply.

In order to start operation, a CEC has to be entered on the relevant list maintained by the President of URE.

What is to be gained and what to watch out for in dynamic pricing contracts

Also starting from August 2024, electricity consumers will have the right to enter into dynamic pricing contracts with any retailer that serves more than 200,000 customers. The electricity price under such a contract will reflect price fluctuations in the electricity markets, in particular the day-ahead and intraday markets.

The option to choose such an offer will be limited to customers with installed remote reading meters. Therefore, the implementation of the dynamic price is closely linked to the moment when such meters are installed, and the remote reading systems and the Central Energy Market Information System become operational. The creation of these systems will enable price comparisons and rapid response to changing circumstances.

It should be noted that dynamic price contracts are characterised by volatility and fluctuating prices. Therefore, electricity retailers using dynamic price contracts have been obliged to inform customers, in a transparent and understandable manner, of the costs and benefits, as well as the risks associated with such contracts.

In order to ensure this transparency, the Regulator has been tasked with monitoring the situation on the electricity market with regard to dynamic pricing. The President of URE will also publish an annual report on the market segment where dynamic pricing is applied.

*“Dynamic tariffs pass price signals directly onto consumers and give them a chance to respond. When there is a power surplus in the system and no one is willing to buy, we know intuitively that the commodity should be cheaper. The introduction of dynamic tariffs means, on the one hand, a chance for cheaper electricity when there is a surplus of power in the system, but also a risk of a high price when the supply is more limited. The dynamic tariff offers possible cost savings but on condition that we know how to use it: we understand how the market works, what are the drivers of energy prices, how they develop in different time bands, and we have the option and capability to manage our consumption”* notes Rafał Gawin.

#### Change of supplier in 24 hours

The possibility of changing electricity supplier within a maximum of 24 hours is to be introduced for the benefit of individual consumers. With the launch of the Central Energy Market Information System (CSIRE), the new supplier will send a notification to the [OIRE](#) (Energy Market Information Operator) about the conclusion of an electricity supply contract or a comprehensive contract with the customer, and automatic verification will take place in the system, which means that the whole ‘technical’ process will take no more than 24 hours. This arrangement will become available from July 2025.

#### New model for fall-back electricity supply

From the moment when the CSIRE goes live, new rules will be introduced with regard to fall-back supply to electricity consumers, which will take into account the automated circulation of energy market information among users of the central system. This will simplify the procedure for triggering the fall-back mechanism, while increasing the level of protection and safety for customers.

Fall-back supply contracts will be for an indefinite term and, importantly, will be terminated as soon as the customer enters into a contract with a new power supplier. At the same time, the price of electricity sold under the fall-back mechanism will be higher<sup>[2]</sup> than that on the competitive market, which is meant as an incentive for the end consumer to select a new supplier as soon as possible.

#### Only comprehensive contracts for household customers

The amendment introduces mandatory conclusion of comprehensive contracts with household customers of gaseous fuels or electricity from February 2024. Previously, it was possible to conclude either a sales contract and a contract for the distribution of gaseous fuels or electricity separately, or comprehensive contracts.

Regulatory sandboxes: The President of URE may temporarily suspend the application of certain provisions with respect to specific entities

Regulatory sandboxes are a solution used extensively in other European countries (e.g. France, Germany, the Netherlands, the UK). The aim is to promote new solutions in energy markets and test their effectiveness by temporarily waiving or limiting the application of some legal and regulatory requirements, whereby they can be replaced by certain entities with the regulations undergoing testing.

The introduction of such a solution to the Polish legal order is expected to accelerate the implementation of modern technologies and innovations, and to support the energy transition process.

*“Regulatory sandboxes create a safe legal space for testing and implementing new technologies, services, products, system user collaboration models or technology solutions. Thanks to the efforts of parties that undertake development projects for the power sector, the regulator will be able to closely observe the implementation of modern technologies in the industry and, as a consequence, promote adequate regulations tailored to the application of such innovative ideas also outside the safe ground of the sandbox”* emphasises the President of URE. *“The key here is the opportunity to verify new technologies and business models that could not be tested under ordinary conditions without appropriate derogations. When innovations are tested in a controlled environment, the regulator can also anticipate more quickly and effectively the need for changes to the law, adapting them to the future development requirements of the sector.*

The Regulator will set the directions for network development and implementation of priority investments

In order to improve effectiveness in the achievement of key goals from the perspective of state policy and the regulator, the legislator broadened the powers of the President of URE with the prerogative to develop guidelines on the direction of network development and the implementation of priority investments to be included in network development plans, so as

to ensure their coherent, systematic and coordinated development at national level. The regulator will publish these guidelines in the Public Information Bulletin.

Importantly, the implementation of the guidelines of the President of URE with regard to priority investments is non-mandatory, and has been combined with a remuneration system to provide appropriate incentives for companies. The President of URE also gained the power to monitor the execution of development plans in terms of the direction of network development and the implementation of priority investments.

Assurance of the proper performance of the licensed activity as a new prerequisite for the granting of a licence. Possibility of amending the licence *ex officio*.

The legislator, at the request of the Regulator, introduced an additional prerequisite for the granting, modification or revocation of a licence, which will concern the assurance of proper performance of a licensed activity. The President of URE will now be able to refuse granting a licence to an applicant who does not provide the assurance of proper performance of the licensed activity. Accordingly, the regulator will be able to revoke the licence or modify its scope if it is determined that the licence holder does not provide the assurance of proper performance of the licensed activity.

The above changes are driven by the need to give the President of URE the opportunity to assess the totality of the applicant's actual and legal situation, so that licences are only granted to companies that genuinely provide the assurance that the activities under such licences will be carried out properly. Consequently, the scope of circumstances subject to verification by the President of URE has been expanded, which means that a licence may be refused or revoked when the circumstances reasonably indicate that the entity concerned will not carry out their economic activity as required. This will allow the President of URE to respond more quickly to customer complaints about actions that violate their rights, such as deliberately misleading customers.

The amendment also grants the President of URE the power to amend the licence *ex officio* (not only at the licence holder's request). The regulator will now be able to amend the terms of the licence issued, in particular in case when they need to be brought into line with current legislation or in order to prevent practices that harm the interests of customers or undermine the development of competition.

As a result, the level of market and consumer protection will increase, especially in households.

Companies will not be allowed to decline mediation before the Negotiation Coordinator to consumers

The amendment expanded the catalogue of contracts<sup>[8]</sup> and entities<sup>[9]</sup> which have access to an out-of-court dispute resolution procedure. However, the most significant change consists

in the introduction of mandatory participation of companies in mediation proceedings before the [Coordinator](#) when dealing with household consumers and active customers with a consumer status. Until now participation in pre-court proceedings has been voluntary for both parties, which meant that energy companies often refused to mediate. Now, if a company does not participate in the proceedings before the Coordinator, the President of URE may impose a fine of between PLN 500 and PLN 2,000 on the company that declines such cooperation.

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Key solutions introduced by the amendment:

- aggregation – the activity of combining the volume of capacity or electricity offered by consumers, electricity generators or electricity storage operators, taking into account the technical capacity of the network to which they are connected, for the purpose of selling electricity, providing system services or flexibility services on the electricity markets,
- flexibility services – services provided to the electricity distribution system operator by an aggregator or by system users who are active customers, generators, operators of electricity storage facilities, whose networks, installations or equipment are connected to the electricity distribution network, excluding the 110 kV coordinated network, to ensure the security and increase the efficiency of the distribution system development, including the management of network congestion in the electricity distribution network, excluding the 110 kV coordinated network,
- active customer – i.e. a final customer acting either individually or in a group, which:
  - a. uses self-generated electricity, or
  - b. stores self-generated electricity, or
  - c. sells self-generated electricity, or
  - d. carries out energy efficiency improvement projects within the meaning of the Energy Efficiency Act, or
  - e. provides system services, or
  - f. provides flexibility services

provided that the activities referred to in points (b-f) are not the object of the customer's principal economic activity,

- peer-to-peer energy trading from renewable energy sources (P2P) – a new formula for selling energy generated by a prosumer or collective prosumer. Generators of electricity in prosumer installations will be able to sell the generated surplus electricity to system users directly or through a third party, i.e. an aggregator. The

conclusion, settlement and termination of the P2P contracts for electricity generated in RES takes place through a RES power P2P trading platform, which means an online trading platform that allows for the automated execution of transactions and payments either directly between the parties to these contracts or via a third party (the aggregator).

The aim is to give participants in P2P trading as much freedom as possible to decide whether they want to participate in this form of energy trading, how they want to organise their P2P trading, or, finally, which digital trading platform provider to choose. In the opinion of the law makers, such an approach will allow the necessary experience to be gathered in a relatively limited, local 'community' of P2P market participants, which, at the stage of subsequent legislative changes, may lead to the expansion of the scope of P2P trading and the adaptation of relevant regulatory instruments for this purpose.

The amendment also imposes a number of new obligations on the President of URE in terms of monitoring the situation on the electricity market. The regulator will monitor, among other things:

- the level and effectiveness of market opening and competition at wholesale and retail levels, including competition at power exchanges;
- prices for household electricity consumers, including prepayment forms of billing implemented with the use of remote reading meters;
- the conclusion and application of contracts with dynamic electricity prices, offers from electricity suppliers, impact of these contracts and offers on prices and tariffs for household final consumers, and the estimation of risks associated with these contracts;
- charges for electricity system maintenance services and the performance of these services;
- the ratio of prices charged by electricity suppliers to household electricity consumers to wholesale electricity prices;
- the development of tariffs and charges for distribution services;
- complaints reported by household electricity consumers;
- the potential distortion or restriction of competition, including the provision of relevant information and notification of any significant instances of such distortion or restriction to the President of the Office of Competition and Consumer Protection;
- the existence of restrictive contractual practices, including exclusivity clauses, which may prevent customers from contracting with more than one supplier at the same time, or limit their choice in this regard.

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What else can be found in the amendment?

1. changes concerning the operation of the CSIRE (Central Energy Market Information System);
2. an obligation on electricity sellers applying a tariff approved by the President of URE to inform the household final customer, at least quarterly, of the possibility for that customer to purchase electricity from the supplier of their choice, the availability of electricity supply offers in the comparison engine and the possibility of savings on the competitive electricity market, including in particular contracts with dynamic electricity prices;
3. a new reporting obligation for companies trading natural gas with foreign countries. These companies will be obliged to provide the President of URE with information on the performance of contracts involving natural gas exports for the last quarter, including the prices and quantities of natural gas sold, within 30 days of the end of the quarter.

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<sup>[1]</sup> \_ Journal of Laws no. 1681.

<sup>[2]</sup> \_ Directive 2019/944 on common rules for the internal market in electricity lays down rules on the generation, distribution, supply and storage of electricity, and on consumer protection to enable competitive, transparent and consumer-oriented electricity markets in the EU. The directive repealed the previously applicable Directive 2009/72/EC of 13 July 2009, on the basis of which some market-oriented solutions were introduced in Poland as part of the so-called Third Winter Package.

<sup>[3]</sup> \_ According to the definition of a direct line, it means a power line connecting an unbundled customer to an unbundled generating unit or a power line connecting a generating unit to an energy company trading in energy for the direct supply of energy to its own facilities, subsidiary entities or to customers connected to the network or installations of these companies.

<sup>[4]</sup> \_ This applies to micro enterprises that consume less than 100 MWh per year.

<sup>[5]</sup> \_ Article 31g(5) and (6) of the Energy Law Act.

<sup>[6]</sup> \_ Article 56(1)(55) of the Act.

<sup>[7]</sup> \_ However, this will be no more than three times the market price of electricity referred to in Article 23(2)(18a) of the Energy Law Act of 10 April 1997.

<sup>[8]</sup> \_ Proceedings may also be undertaken for disputes arising from aggregation contracts and energy storage contracts.

<sup>[9]</sup> \_ An active customer with a consumer status may also be the applicant in the proceedings before the Negotiation Coordinator at the President of URE, whereas aggregators and citizen energy communities have been added on the other side in addition to energy companies.

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