

Energy Regulatory Office

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Amendment of the RES Act: new support systems, material solutions for local power generation and additional duties for the President of URE

On 1 October, an amendment to the RES Act will come into force, which implements into Polish law another part of the RED II Directive concerning support for RES, both on the electricity market and the heat market. The provisions of the amended act also include regulations for such forms of energy as renewable hydrogen and cooling. The Act imposes a number of new obligations on the President of the Energy Regulatory Authority.

“The European Union’s climate policy clearly sets the change directions for the Polish power sector. The drive to maximise decarbonisation requires a fundamental shift in the energy mix and the replacement of carbon sources with zero-carbon and green installations. Power generation from green micro units has been growing at a tremendous rate for several years. The importance of such distributed generation sources in our country will continue to grow exactly in the context of energy transition and creation of a new energy market architecture which promotes local generation and consumption. And in view of the changes this market is undergoing, along with the technology development amendments had to be made to the RES Act regulating this segment ” said Rafał Gawin, President of URE.

New tasks of the President of URE in the area of operation of RES support schemes.

Support for modernised RES installations

Although the previous provisions of the RES Act contained framework regulations for the support of modernised RES installations, in the absence of implementing regulations, it was not possible for them to function effectively. The legislator has therefore decided to modify them so as to ensure that generators can actually take advantage of these solutions. The provisions of the amended RES Act include a new, broader definition of the modernisation of a RES installation, which provides that the investment process may consist in any of the following:

- the restoration of the original condition or modification of the performance or technical parameters of a renewable energy source installation, or
- the conversion of a renewable energy source installation into another type of renewable energy source installation, with the exception of conversion into a multi-fuel combustion unit, or
- the conversion of a generating unit that is not a renewable energy source installation into a RES installation, with the exception of conversion into a multi-fuel combustion unit.

The legislator has provided for modernised installations using different types of biogas, hydropower or biomass to be covered by the FIT support scheme^[1] (RES installations with a total installed electrical capacity of less than 500 kW) and the FIP support scheme^[2] (RES installations with a total installed electrical capacity of not less than 500 kW and not more than 1 MW).

The new legislation will also allow modernised RES installations to participate in auctions for the sale of electricity generated from RES sources, with no separate auctions foreseen for generators of electricity from modernised installations. They are to participate in the auctions together with electricity generators from new installations. As a prerequisite to obtaining the support, the generators are required, in particular, to obtain a FIT/FIP certificate from the President of URE or a certificate of admission to the auction.

The duration of support and its level for modernised installations linked to the amount of capital expenditure incurred on the modernisation of the installation in question. The conditions for participation in these support schemes have also been clarified.

Importantly, the possibility for generators to benefit from these solutions was made conditional on either a positive decision by the Commission on the compatibility of the state aid provided for in these regulations with the internal market, or the Commission's acknowledgement that the changes to the regulations do not constitute new state aid.

Operational support – a new form of assistance for RES installations whose support period has expired

For RES installations that have previously benefited from the mechanisms provided for in the RES Act and whose support period has already expired, the legislator has provided for the possibility to obtain new operational support.

For installations with an installed electrical capacity of 1 MW or less, using different types of biogas, hydropower or biomass, a market price subsidy scheme (similar to the *FIP* mechanism currently in place) has been designed. Operational support under this scheme is foreseen for a maximum of 10 years from the date of the first day of sale of electricity, but no longer than until 31 December 2034. In turn, for installations with a total installed electrical capacity of more than 1 MW, using various types of biogas, hydropower and

biomass, including hybrid systems, biomass co-firing in dedicated multi-fuel combustion installations and thermal waste conversion installations for high-efficiency cogeneration – the possibility to enter an auction for operational support has been foreseen. The winner will be supported for one year after winning the auction, after which they will be eligible to re-enter the next auction. The maximum period of support will also last no longer than 31 December 2034.

These schemes are more generator-friendly: for example, they do not foresee the need for declarations of state aid. It is also worth noting that the new regulation provides for reference operational prices applicable to the operational support to be set on the basis of implementing regulations for the RES Act, separate from the current one.

To be able to take advantage of these provisions, generators will be required either to obtain an appropriate certificate from the President of URE or to present confirmation that an appropriate declaration has been submitted to the President of URE. The availability of this option is also conditional on a positive decision from the Commission on the compatibility of the state aid provided for in these provisions with the internal market or the acknowledgement by the Commission that the changes to the provisions do not constitute new state aid.

The provisions for this scheme will come into force on 1 July 2025.

Biomethane – a new type of gaseous fuel. Support scheme for generators

The amended provisions of the RES Act take into account the need identified by the legislator to create a market for biomethane with a view to its injection to gas pipeline networks and use as motor fuel. The package of regulations introduced in this respect includes a definition of biomethane and stipulates the need for biogas producers to obtain an entry in a newly created register of regulated activity maintained by the President of URE for the purposes of producing biomethane or biomethane from biogas. The production of biomethane from farm biogas will, in turn, require an entry in the register of producers carrying out economic activity concerning farm biogas, maintained by the Director General of the [National Agricultural Support Centre](#) (KOWR).

The support scheme dedicated to biomethane producers involves a market price subsidy framework modelled on the FIP scheme, and certificate from the President of URE has to be obtained to receive the support. The period of support under this scheme is 20 years from the first day of sale of the biomethane covered by the support scheme, but no longer than until 30 June 2048.

Importantly, the amended provisions of the Energy Law^[31] provide preferences for the connection of biomethane facilities to the gas network.

Citizen participation

Energy clusters

An analysis of the regulations governing the operation of energy clusters in our country so far has prompted the legislator to take efforts aimed at improving the operation of this form of local energy generation. As a result, regulations have been developed that include a modification of the definition of an energy cluster, strengthening the role of local government (municipalities, counties), as well as defining the area of activity of the cluster, the role of the cluster coordinator and the scope and content of agreements establishing energy clusters. In doing so, the rules for cooperation of clusters with distribution energy system operators and energy suppliers were modified.

An important element of the changes introduced are provisions establishing tangible support for energy clusters in the form of discounted rates of distribution charges, fees payable under support schemes for RES, high-efficiency cogeneration and energy efficiency, which are intended to accelerate the development of clusters. In order to benefit from these discounts, registration in the cluster register kept by the President of URE is necessary, and the minimum requirements applicable to the energy cluster have to be fulfilled, which concern the level of energy consumption from RES, installed capacity of generation sources and energy storage facilities, as well as the ratio of electricity demand covered with own production. The availability of these measures has also been made conditional either on a positive decision by the Commission on the compatibility of the state aid provided for in the above regulations with the internal market, or on the Commission's acknowledgement that the amendments to the regulations do not constitute new state aid.

Energy cooperatives.

The amended provisions of the RES Act also contain provisions aimed at improving the performance of energy cooperatives, which operate on the basis of an entry in the register kept by the Director General of the National Agricultural Support Centre (KOWR). The amended regulations include in particular:

- the definition of an energy cooperative and a member of an energy cooperative,
- the area of operation of a cooperative,
- relief available to energy cooperatives,
- the obligations of distribution system operators and power suppliers towards cooperatives.

At the same time, the amended provisions of the Energy Law provide for preferences in the connection of energy cooperatives to the electricity grid.

Guarantees of origin also for biomethane, heat, cooling, renewable hydrogen and biogas.

The implementation of the RED II Directive includes the modification of regulations in the area of guarantees of origin. The catalogue of guarantees of origin issued by the President of URE has been extended to include guarantees issued for biomethane, heat or cooling, renewable hydrogen, biogas and farm biogas.

The RES Act also gives the President of URE, as the issuing authority for guarantees of origin in Poland, the option to join the [Association of Issuing Bodies](#) (AIB), which brings together entities issuing guarantees of origin. The accession by the President of URE to the AIB will lead to the synchronisation of the Polish register with the HUB operated by the AIB and the European Energy Certificate System (EECS) standard. The participation of the President of URE in the AIB, besides purely formal issues giving the possibility to exchange guarantees of origin internationally, for some potential foreign investors may also be a decisive factor in assessing the attractiveness of investments in Poland.

New tasks have also been introduced for the operator of the Guarantees of Origin Register (currently the Polish Power Exchange - TGE) regarding the development and publication on its website of information on the so-called annual residual mix.

Cable pooling

In one of the final stages of the drafting process, the possibility of sharing connection infrastructure (cable pooling) was regulated. It consists in using the secured transmission capacity, e.g. for a previously developed wind farm, to run a photovoltaic plant at the same location (with the same connection). Importantly, the new infrastructure may belong to the same or different investors. In such case, the two investment projects share the power infrastructure and their operation is more balanced in terms of the generation profile. The amendment provides for cable pooling among the beneficiaries of the auction support scheme and the FIT/FIP schemes, with the proviso that the power generator at the plant to be connected does not benefit, nor will it benefit, from any mechanism supporting electricity generation from renewable sources provided for in the RES Act.

“Cable pooling will first and foremost allow for more efficient use of already existing connection capacities. This is because it will make it possible to use, for example, solar and wind energy on a single connection to the grid. Renewable sources can complement each other perfectly in the generation profile. As a prerequisite, however, the owners of the power sources concerned have to work out an individual model of cooperation. It is hoped that this solution will also reduce the number of disputes over grid connection refusals. In my opinion, it will also translate into more efficient use of the connections already in place, which means more efficient use of RES capacity. Of course, like any new solution, it will require time to be fully implemented, also for the investors to work out the best models of cooperation, e.g. with regard to cost sharing” notes Rafał Gawin, President of URE.

Other changes introduced by the amendment to the RES Act include:

- amendment of the definition of a hybrid RES installation;
- modification of the support scheme for heat generated in RES installations;
- expanded scope of inspections carried out by the President of URE on the basis of the RES Act;
- increased obligations in respect of reporting to the President of URE;
- monitoring of Power Purchase Agreements (PPAs);
- modification of the provisions concerning the imposition of fines by the President of URE – expanded catalogue of sanctions;
- establishment of a National Renewables Contact Point to be operated by the Minister responsible for climate.

^[1] _ Feed-in-tariff (FIT) system. The FIT scheme is open to power generators operating RES installations with a total installed electrical capacity of less than 500kW, when they sell or intend to sell unused electricity to the obliged supplier (*sprzedawca zobowiązany*).

^[2] _ FIP (feed-in premium) market price subsidy scheme. The FIP scheme is designed for generators of electricity from renewable energy sources in installations with a total installed electrical capacity of 1 MW or less, who sell or intend to sell unused electricity to an entity of their choice other than the obliged supplier.

^[3] _ Act of 28 July 2023 amending the Energy Law and certain other acts, Journal of Laws 1681

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