



***PROPOSAL OF THE NEW INCENTIVE SCHEME
FOR ELECTRICITY
GENERATED IN HIGH-EFFICIENCY CHP UNITS***

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On 5 April 2018 the Polish Government published the draft act on promoting electricity from high-efficiency cogeneration (“**Draft**”) which is envisaged to incentivize generation of electricity from the high-efficiency combined heat and power units (“**CHP**” and “**CHP Electricity**”) from 1 January 2019 onwards. The Draft is now subject to public consultations and should enter into force in its entirety upon EC decision approving the state aid scheme provided in the proposal.

[Current legal framework] Since 1 July 2007, generation of the CHP Electricity has been incentivized with the support scheme based on different types of the certificates of origin (so-called “red”, “yellow” and “violet” certificates). The foregoing scheme is to expire at the end of 2018.

[General overview] According to the Draft, the CHP Electricity producers will be eligible to benefit from one of the 4 different feed-in premium supporting schemes based on the “fixed premium” model and available to various CHP operators depending on whether the CHP Electricity is generated in the Existing, New, Modernized or Substantially Modernized CHP unit as well as depending on the installed capacity of given unit:

Type of incentive scheme	Eligibility
Auction-based cogeneration premiums	New and Substantially Modernized CHP units with capacity equal to at least 1 MWe and lower than 50 MWe
Guaranteed premiums	Existing and Modernized CHP units with capacity equal to at least 1 MWe and lower than 50 MWe Existing, New, Modernized and Substantially Modernized CHP with capacity below 1 MWe
Contest-based individual cogeneration premiums	Existing and Modernized CHP with capacity equal to at least 50 MWe*
Individual guaranteed premiums	New and Substantially Modernized CHP units with capacity equal to at least 50 MWe*

* The CHP units with installed capacity of 300 MWe or above will be eligible to benefit from the incentive scheme upon prior positive decision of the European Commission approving the scheme with respect to that installation.



The CHP units shall be qualified as the Existing, New, Modernized or Substantially Modernized CHP units based on the following criteria:

Existing CHP	CHP unit developed based on the investment decision* made before 1 January 2019
New CHP	CHP unit developed based on the investment decision* made no earlier than on 1 January 2019 and comprised of equipment manufactured exclusively not earlier than 60 months before the day of first generation of electricity
Modernized CHP	CHP unit subject to investments aimed at improvement of the CHP if: (a) the investment decision* on modernization has been made no earlier than on 1 January 2019, (b) equipment used within the modernization has been manufactured not earlier than 60 months before the day of first generation of electricity in the Modernized CHP; (c) capital expenditures within the modernization corresponded to at least 10% and less than 50% of capital expenditures to be incurred on comparable new CHP
Substantially Modernized CHP	CHP unit subject to investments aimed at improvement of the CHP if: (a) the investment decision* on modernization has been made no earlier than on 1 January 2019, (b) equipment used within the modernization has been manufactured not earlier than 60 months before the day of first generation of electricity in the Substantially Modernized CHP; (c) capital expenditures within the modernization corresponded to at least 50% of capital expenditures to be incurred on comparable new CHP

* "investment decision" is understood as commencement of the construction works related to the investment or the first firm commitment to order equipment or other commitment that makes the investment irreversible, whichever is first, with exception that purchase of land and preparatory works such as obtaining permits and preliminary feasibility studies cannot be qualified as the investment decision.

Save for the CHP units with capacity lower than 1 MWe, the CHP operator shall be eligible to benefit from the relevant incentive scheme subject to condition that 70% of the useful heat generated in given CHP unit is supplied to the open heating systems based on the hot water (district heating systems). If the foregoing criterion is not met, the volume of the CHP Electricity eligible to the premium will be reduced proportionally.

[Financing] Under the Draft, all the proposed incentive schemes will be financed with the so-called cogeneration fee to be collected by DSOs and TSOs from the final energy consumers and calculated as the product of the (a) electricity consumption and (b) the relevant cogeneration fee rate determined annually by the President of the Energy Regulation Office ("**President of ERO**"). The cogeneration fees shall be transferred to the state-owned company named Zarządca Rozliczeń S.A. ("**SO**") which will pay the premiums in accordance with the law.



I. Auction-based cogeneration premiums

[Eligibility] Auction-based cogeneration premiums will be available to the operators of the **New and the Substantially Modernized CHP units with capacity of $1 \text{ MWe} \leq P < 50 \text{ MWe}$ selected within the auction** carried out by the President of ERO at least once a year, it being also specified that not more than **5% of each auction budget will be available to the CHP units located abroad** subject to certain pre-requisites (i.a. intergovernmental agreement providing for mutual access to the incentive schemes available in both countries; transmission of the electricity to the Polish grid is physically possible).










[Incentive period] The auction-based cogeneration premiums will be payable up to the maximum period of **15 years** starting from the date of the first electricity generation in the New/Substantially Modernized CHP but in any case **not later than 31 December 2043**.

[Calculation method] Cogeneration premium available to given CHP unit will be calculated as a product of (a) the fixed rate set forth within the “pay as bid” auction and (b) volume of electricity **generated, sold and fed into the grid** from given CHP, except for electricity generated in those hours where the negative prices are quoted at the day-ahead market for more than 6 subsequent hours.

[Pre-qualification procedure] Auction may be participated by investors whose projects has been proved feasible and eligible within the pre-qualification procedure. The certificates issued within the pre-qualification procedure and authorizing to participate in auctions will be valid for 18 months (but not longer than the validity period of the documents submitted within pre-qualification process).

[Auction] The auctions are to be carried out based on the following basic assumptions:

- a. the auctions would be carried out based on the “pay as bid” system within 9 separate technological baskets divided based on capacity and fuel criteria:

	gas fuels*	solid fuels	other than gas and solid fuels
$1 \text{ MWe} \leq P < 5 \text{ MWe}$			
$5 \text{ MWe} \leq P < 20 \text{ MWe}$			
$20 \text{ MWe} \leq P < 50 \text{ MWe}$			

* Gas generated from solid fuels within the gasification processes, as well as system gas, coal mine gas, coke-oven gas and other waste gases from technological process shall not be qualified as gas fuels.



- b. the offers submitted within each auction are queued based on the amount of cogeneration premium specified in the offer and – in case of the same amount – the time of submission; winning offers include the offers with the lowest unit cogeneration premium which in aggregate do not exceed: (a) the budget allocated for given auction and – in case an aggregate volume of the CHP Electricity offered within the auction does not exceed the maximum volume specified as the budget of this auction - (b) 80% of an aggregate volume of CHP Electricity covered by all the offers submitted within given auction; in case the remaining volume of CHP Electricity to be sold within the auction is less than the volume specified in the next lowest offer, the remaining volume is not sold within the auction;
- c. budgets (i.e. maximum volume of CHP Electricity and maximum value of cogeneration premium) available in each auction basket in given year would be set forth in the secondary legislation issued by the Minister of Energy by 30 November of the preceding year;
- d. upon completion of the auction, the cogeneration premium is set for each winning bidder separately, such premium being fixed (irrespective of the wholesale energy prices) and not higher than the amount set forth in the secondary legislation issued by the Minister of Energy by 31 October of the preceding year (such maximum amount set by the Minister to be equal to 110% of the guaranteed premium set for given year); offers with premium exceeding the maximum amount set by the Minister of Energy would be rejected;
- e. the underlying investments in New CHP units as well as the Substantial Modernization of the existing CHP units must be completed within: (i) 48 months from completion of the auction – with respect to the gas-fueled CHP units and (ii) 60 months from completion of the auction – with respect to the other CHP units, such commitment to be secured with bank guarantee or money deposit in the amount of PLN 30/kW of the installed capacity;
- f. the unit cogeneration premium is to be binding within the entire incentive period save for yearly indexation with annual average index of retail prices of consumer goods and services, described by President of Central Statistical Office;
- g. the amount of investment aid granted to given CHP unit after the auction and/or within 10-year period preceding the auction would reduce the cogeneration premium set forth within the auction (save for the state aid granted for construction/operation of the existing CHP unit before Substantial Modernization);
- h. cogeneration premium shall be settled on monthly basis.

[Auction budgets] According to the Draft, it is expected that the unit cogeneration premiums would be in range of:

- (i) PLN 154-187/MWh for CHP units using gas fuels;
- (ii) PLN 96-132/MWh for CHP units using solid fuels;
- (iii) PLN 23-55/MWh for CHP units using other fuels.

The total budget for the auction-based cogeneration premiums is expected in range of PLN 15.8-19.8 bln in years 2019-2041 with the highest annual budgets at ca. PLN 1-1.3 bln/a in each year of the period 2026-2033.



II. Guaranteed premiums

[Eligibility] Guaranteed premiums will be available to the operators of the Existing and Modernized CHP units with capacity of $1 \text{ MWe} \leq P < 50 \text{ MWe}$ as well as all the Existing, New, Modernized and Substantially Modernized CHP with capacity $< 1 \text{ MWe}$. Eligibility of given CHP operator and unit shall be confirmed by way of the certificate to be issued by the President of ERO at request of the CHP operator, such certificate to specify i.a. type of the CHP unit as well as the incentive period available to given CHP unit.

[Incentive period] Guaranteed premiums will be payable up to the maximum period of:

- (i) 3 years calculated from the date of the first generation of electricity upon completion of the Modernization but not later than until 31 December 2040 – in case of the Modernized CHP unit with capacity $< 50 \text{ MWe}$ where the capital expenditures within the Modernization corresponded to at least 10% and less than 25% of capital expenditures to be incurred on comparable new CHP;
- (ii) 7 years calculated from the date of the first generation of electricity upon completion of the Modernization but not later than until 31 December 2040 – in case of the Modernized CHP unit with capacity $< 50 \text{ MWe}$ where the capital expenditures within the Modernization corresponded to at least 25% and less than 50% of capital expenditures to be incurred on comparable new CHP;
- (iii) 15 years calculated from the date of the first generation of electricity confirmed with the certificate of origin (excluding the period between 31 March 2013 and 30 April 2014) but not later than until 31 December 2035 – in case of the Existing CHP units;
- (iv) 15 years from the date of the first generation of electricity upon, respectively: commissioning of the New CHP or completion of the Substantial Modernization, but not later than until 31 December 2043 - in case of the New and Substantially Modernized CHP units with capacity $< 1 \text{ MWe}$.

[Calculation method] Guaranteed premium available to given CHP unit will be calculated as a product of (a) the fixed rate set forth annually in the secondary legislation issued by the Minister of Energy and (b) volume of electricity **generated, sold and fed into the grid** from given CHP, except for electricity generated in those hours where the negative prices are quoted at the day-ahead market for more than 6 subsequent hours. The guaranteed premium shall be settled on monthly basis.

The amount of investment aid granted to given CHP unit after the auction and/or within 10-year period preceding the auction would reduce the guaranteed premium set forth within the auction (save for the state aid granted for construction/operation of the existing CHP unit before Substantial Modernization).

[Budget] According to the Draft, it is expected that the budget for the guaranteed premiums available to CHP units:

- (a) with capacity of $1 \text{ MWe} \leq P < 50 \text{ MWe}$ - would amount to ca. PLN 1.8 bln in years 2019-2034.
- (b) with capacity below 1 MWe – would amount to ca. PLN 5.1-5.8 bln in years 2019-2043 (with unit rate of the guaranteed premium for such installations in range of PLN 162-190/MWh).



III. Contest-based individual cogeneration premiums

[Eligibility] Contest-based individual cogeneration premiums will be available to the operators of the **New and the Substantially Modernized CHP units with capacity of at least 50 MWe selected within the contest** carried out by the President of ERO at least once a year, it being also specified that not more than **5% of each contest budget will be available to the CHP units located abroad** subject to certain pre-requisites (i.a. intergovernmental agreement providing for mutual access to the incentive schemes available in both countries; transmission of the electricity to the Polish grid is physically possible).

[Incentive period] The contest-based individual cogeneration premiums will be payable up to the maximum period of **15 years** starting from, respectively: commissioning of the New CHP or completion of the Substantial Modernization, but in any case **not later than 31 December 2043**.

[Calculation method] The contest-based individual cogeneration premium available to given CHP unit will be calculated as a product of (a) the fixed rate specified by the President of the ERO and accepted by the bidder within the contest and (b) volume of electricity **generated, sold and fed into the grid** from given CHP, except for electricity generated in those hours where the negative prices are quoted at the day-ahead market for more than 6 subsequent hours.

[Pre-qualification procedure] Auction may be participated by investors whose projects has been proved feasible and eligible within the pre-qualification procedure. The certificates issued within the pre-qualification procedure and authorizing to participate in auctions will be valid for 18 months (but not longer than the validity period of the documents submitted within pre-qualification process).

[Contest] The contests are to be carried out based on the following basic assumptions:

- a. the offers submitted within the contests are ranked based on the criteria including unit individual cogeneration premium rate (to be calculated by the President of ERO according to the algorithm specified in the secondary legislation issued by the Minister of Energy), location of the CHP unit as well as fuel used in the CHP unit; winning offers include the offers with the highest rank which in aggregate do not exceed the budget allocated for given contest; in case the remaining volume of CHP Electricity to be sold within the contest is less than the volume specified in the next offer, the remaining volume is not sold within the contest;
- b. if the bidder does not accept the unit individual cogeneration premium calculated by the President of ERO, the offer submitted by this bidder would be rejected;
- c. budgets (i.e. the maximum volume of CHP Electricity and the maximum amount of the individual cogeneration premium) available in the contest for given year would be set forth in the secondary legislation issued by the Minister of Energy by 30 November of the preceding year;
- d. upon completion of the contest, the individual cogeneration premium is set for each winning bidder separately, such premium being fixed (irrespective of the wholesale energy prices) and not higher than



the amount set forth in the secondary legislation issued by the Minister of Energy by 31 October of the preceding year;

- e. the underlying investments in New CHP units as well as the Substantial Modernization of the existing CHP units must be completed within 60 months from completion of the contest, such commitment to be secured with bank guarantee or money deposit in the amount of PLN 30/kW of the installed capacity;
- f. the unit individual cogeneration premium is to be binding within the entire incentive period save for yearly indexation with annual average index of retail prices of consumer goods and services, described by President of Central Statistical Office;
- g. the amount of investment aid granted to given CHP unit after the auction and/or within 10-year period preceding the auction would reduce the individual cogeneration premium set forth within the contest (save for the state aid granted for construction/operation of the existing CHP unit before Substantial Modernization);
- h. individual cogeneration premium shall be settled on monthly basis.

[Budget] According to the Draft, it is expected that the unit individual cogeneration premium would be range of PLN **104-134/MWh** while the total budget for year **2019-2041** would correspond to ca. PLN 4-5.2 bln.

IV. Individual guaranteed premiums

[Eligibility] Individual guaranteed premiums will be **available to** the operators of the **Existing and Modernized CHP units with capacity of at least 50 MWe**. Eligibility of given CHP operator and unit shall be confirmed by way of the certificate to be issued by the President of ERO at request of the CHP operator on annual basis, such certificate to specify i.a. incentive period available to given CHP unit and the unit rate of the individual guaranteed premium.

[Incentive period] Individual guaranteed premiums will be payable up to the maximum period of:

- (v) 3 years calculated from the date of the first generation of electricity upon completion of the Modernization but not later than until 31 December 2040 – in case of the Modernized CHP unit with capacity of at least 50 MWe where the capital expenditures within the Modernization corresponded to at least 10% and less than 25% of capital expenditures to be incurred on comparable new CHP;
- (vi) 7 years calculated from the date of the first generation of electricity upon completion of the Modernization but not later than until 31 December 2040 – in case of the Modernized CHP unit with capacity of at least 50 MWe where the capital expenditures within the Modernization corresponded to at least 25% and less than 50% of capital expenditures to be incurred on comparable new CHP;



(vii) 15 years calculated from the date of the first generation of electricity confirmed with the certificate of origin (excluding the period between 31 March 2013 and 30 April 2014) but not later than until 31 December 2035 – in case of the Existing CHP units.

[Calculation method] Guaranteed premium available to given CHP unit will be calculated as a product of (a) the fixed rate set forth annually by the President of the ERO and not exceeding the maximum individual guaranteed premium set forth in the secondary legislation issued by the Minister of Energy for given year and (b) volume of electricity **generated, sold and fed into the grid** from given CHP, except for electricity generated in those hours where the negative prices are quoted at the day-ahead market for more than 6 subsequent hours. The guaranteed premium shall be settled on monthly basis.

The amount of investment aid granted to given CHP unit after the auction and/or within 10-year period preceding the auction would reduce the guaranteed premium set forth within the auction (save for the state aid granted for construction/operation of the existing CHP unit before Substantial Modernization).

[Budget] According to the Draft, it is expected that the budget for the guaranteed premiums would amount to ca. PLN 4 bln in years 2019-2034.



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