

LEGAL ALERT

POLISH INCENTIVE SCHEMES FOR RENEWABLE ENERGY GENERATION

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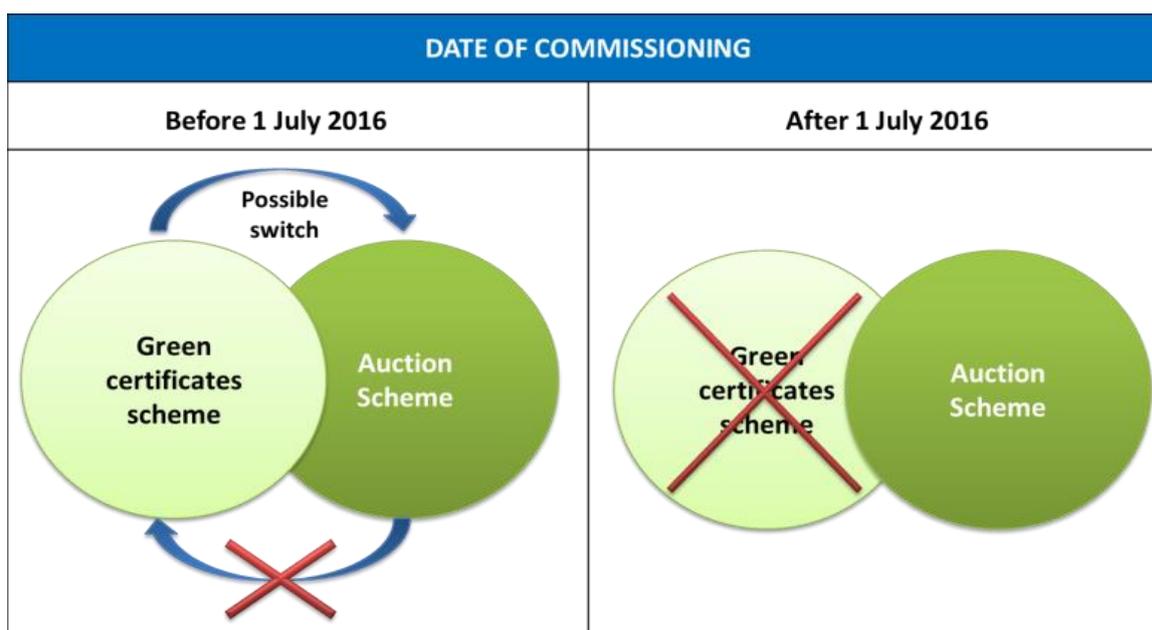
I. General overview of existing legal framework

The incentive schemes applicable to renewable energy sources are regulated in the Renewable Energy Sources Act dated 20 February 2015 (“RES Act”) and the secondary legislation issued thereupon.

[Applicability of the main incentive schemes] Under the foregoing legislation, the installations generating electricity from renewable energy sources (hereinafter “RES Installations”) may benefit from one of the following incentive schemes, depending on the date of commissioning of the installation:

- (1) **CERTIFICATE-BASED SCHEME** – applicable solely to the RES Installations commissioned by 1 July 2016;
- (2) **AUCTION SYSTEM** - applicable to all RES Installations:
 - a) commissioned before 1 July 2016 - if the operator of the pertinent RES Installation decided to start in the auction available to such installation and give up the certificate-based incentive scheme upon winning the auction, except for the following types of RES Installations commissioned before 1 July 2016:
 - hydro power installations with total installed electric power exceeding 20 MW;
 - multi-fuel power plants which are not qualified as “dedicated multi-fuel power plants”.
 - b) commissioned after 1 July 2016 and upon completion of the pertinent auction,
 - c) commissioned after 30 June 2016 but before completion of the auction in which given RES installation was selected – if the entire electricity from such installation generated before completion of the respective auction was sold at the commodity exchange and/or organized market by end of December 2020 and such manner of electricity sale was notified to the President of the Energy Regulatory Office not later than 14 days before the date of commissioning;

- with reservation that the total period of support available to the RES Installation under either certificate-based or auction-based schemes cannot exceed 15 years from first generation.



II. Certificate-based incentive scheme

[General assumptions of the certificate-based incentive scheme – RES installations commissioned by 1 July 2016] The certificate-based incentive scheme is based on tradable certificates of origin whereby renewable energy producers receive:

- a) **price for electricity sold at competitive market** (with the right of the renewable energy producer to sell the entire generation to the so-called “obligated supplier” at a price equal to the average electricity price in the preceding quarter which is currently equal to PLN 241.81/MWh – approx. EUR 56.23/MWh (based on EUR/PLN 4.30), such right being applicable to all RES installations with installed capacity below 0.5 MW as well as all the biogas-fueled installations), as well as
- b) **price for tradable certificates of origin granted to the operator of the RES Installation** (either as the so-called “**Green Certificates**” granted for RES Installations other than those fueled by biogas or “**Blue Certificates**” granted to the biogas-fueled RES Installations), such certificates of origin to be purchased in particular by suppliers selling electricity to final consumers (or major final consumers) and thus burdened with obligation to obtain and redeem certificates of origin up to the redemption quotas specified in the law.

[Redemption quota]

The redemption quotas for certificates of origin create a demand for those certificates and thus have impact on certificates market prices. The RES Acts sets forth the maximum redemption quotas for the certificates of origin (i.e. the obligatory level of certificates of origin that have to be redeemed compared to the total amount of electricity sold to the final consumers in Poland) separately for Green and Blue Certificates at the levels of: 19.35% for the Green Certificates and 0.65% for the Blue Certificates. However, the secondary legislation decreased those redemption quotas to the following levels:

- a) in 2017 - 15.4% for the Green Certificates and 0.6% for the Blue Certificates;
- b) in 2018 – 17.5% for the Green Certificates and 0.5% for the Blue Certificates;
- c) in 2019 – 18.5% for the Green Certificates and 0.5 for Blue Certificates.

As a result, while the redemption quotas for Blue Certificates correspond to the maximum generation from the existing biogas-fueled power plants, the redemption quotas for Green Certificates are much below the level of supply of Green Certificates.

The certificate-based incentive scheme operates so that market price for certificates should not exceed in practice the so-called “substitute fee” (“buy-out” price) which is an alternative method of fulfillment of the obligation to obtain and redeem certificates of origin. Such substitute fee is currently calculated separately for each type of certificates of origin (Green Certificates and Blue Certificates) as 125% of the annual weighted-average market price of respective certificates of origin calculated for the last year but not more than PLN 300.03/MWh (approx. EUR 69.77/MWh) and such substitute fee operates as a cap for the market price of certificates. In practice, as of June 2019 the average-weighted market price of the property rights resulting from the Green Certificates was equal to PLN 129.47/MWh (approx. EUR 30.11/MWh) while the average-weighted market price for Blue Certificates was equal to PLN 297.69/MWh (approx. EUR 69.23/MWh).

[Limitations and exclusions] The support within the certificate scheme is not available to hydro-power installations with installed capacity exceeding 5 MW. As regards the multi-fuel power plants using biomass, biofuels, biogas and agricultural biogas, other than “dedicated multi-fuel power plants”, the support is also limited by: (i) implementing cap on Green Certificates that may be obtained in each year at the level

corresponding to the average annual “green generation” in the period 2011-2013 and (ii) applying further correction with special “co-efficient” set by the Council of Ministers to such certificates.

The certificates of origin are not granted to RES electricity generated in those hours for which an average market price quoted on the day-ahead market is negative for at least 6 subsequent hours.

If the price of certificates of origin quoted at the Polish Power Exchange is lower than the substitute fee for the period of more than 1 month, there will be limited possibility to pay “substitute fee” as an alternative method of the fulfillment of the obligation to obtain and redeem certificates of origin.

III. Auction-based incentive scheme

[Basic assumptions of the mechanism] Given RES installation may benefit from the auction-based incentive scheme if it is selected within the so-called “auction for the sale of the electricity from RES installations” (hereinafter as “the auction”). The auctions are carried out at least once a year in order to select the RES Installations authorized to benefit from support in the form of:

- a) in respect of the **RES installations** with installed capacity **below 0.5 MW** - the **power purchase agreement** concluded with the “obliged supplier” based on which the “obliged supplier” would purchase the entire electricity generated within the selected RES installation for the price agreed within the auction; or
- b) in respect of the **RES installations** with installed capacity of **0.5 MW or higher** – the **sliding feed-in premium** which means that the electricity generated in the RES Installation selected within the auction should be sold at the competitive market (power exchange, OTC transactions) while the RES operator will be granted the statutory right to compensation of the difference between:
 - (i) the envisaged revenues from sale of the offered and actually generated electricity for the price agreed within the auction (as decreased by the investment state aid granted to the project and indexed with CPI); and
 - (ii) market value of the same electricity calculated based on the daily arithmetic average price calculated as arithmetic average of all weighted average hourly electricity prices quoted at the commodity exchange in the day-ahead and two-days-ahead transactions (“Compensation”).

[Support period] In any case the support would be limited to the maximum period of 15 years starting from the first sale of electricity from the pertinent RES installation upon the relevant generation concession but in any case ending not later than on 31 December 2035, save for the offshore wind installations where the support period may be extended to 31 December 2040 (please refer to **Section VII** below, as regards the proposed amendments in this respect).

The maximum 15-year period of support may be further shortened with respect to given projects covered by given auction by way of the regulation issued by the Minister of Energy. As the RES operator is eligible to receive the premiums with respect to the electricity generated based on the Generation License only, availing of the full 15-year incentive period requires obtaining the Generation License covering WF by the end of 2020 (with commissioning of the WF effectively starting in practice not later than in 3rd quarter of 2020 in order to allow completion of the licensing proceedings by the end of 2020).

[Financing] Under auction system financial sources available within the incentive scheme are collected from the final energy consumers by TSO and DSOs (so-called “RES Payers”) in a form of the so-called “RES fee” and then transferred through the state-controlled company named Zarządca Rozliczeń S.A. (“SO”) to

the RES operators selected within the auction either directly or – in case of RES installations below 0.5MW – through so-called “obliged suppliers”. The amount of the RES fee is established by the Polish NRA on annual basis taking into account the forecasted premiums and subsidies to be distributed by Zarządca Rozliczeń S.A. within the incentive scheme in the next year.

[Abroad RES installation] Subject to number of pre-requisites (i.a. prior conclusion of the intergovernmental agreement between Poland and the state in which the respective foreign RES installation is located, providing for mutual availability of incentive schemes in each country to RES installations located in both countries), the auctions will be available to the RES installations located abroad, it being however specified that the maximum volume of electricity generated abroad and purchased within Polish auction may not exceed the threshold defined in regulation issued by the Council of the Ministers and in any case such threshold not exceeding 5%.

[Pre-qualification to the auction] Participation of the RES project in the auction is possible upon positive outcome of the so-called “pre-qualification procedure” established to select entities authorized to submit offers within the auction:

- a) pre-qualification criteria applied within the pre-qualification procedure are to select reliable investors with feasible RES projects (holding in particular the required environmental, zoning and construction permits) that meet the criteria for the incentive scheme;
- b) pre-qualification certificate (“ready-for-auction certificate”) granted upon successful outcome of the pre-qualification procedure authorizes to participate in auctions launched generally not later than 12 months after pre-qualification (but not later than validity period of the permits obtained for the pertinent RES project);
- c) the ready-for-auction certificate is not transferable (does not constitute a tradable asset itself).
- d) pre-qualification procedure shall not apply to RES installations commissioned before 1 July 2016, whose operators are required to submit the declaration of participation in auction scheme instead.

[Main auction rules] Under current law, the auctions are carried out based on the following basic assumptions:

- a) the auctions for the renewable energy are carried out separately within the following “technology” baskets:
 - (i) installations generating electricity using: (a) non-agricultural biogas, (b) hybrid power plants and/or biomass in dedicated biomass combustion installations, (c) biomass, biofuels, biogas or agricultural biogas in dedicated multi-fuel combustion installations, (d) waste thermal treatment units as well as (e) biomass in CHP dedicated biomass combustion installations and CHP hybrid power plants
 - (ii) hydro power plants, geothermal power plant, offshore wind farms as well as power plants using exclusively biofuels;
 - (iii) installations generating electricity using agricultural biogas;
 - (iv) onshore wind farms and PV installations;
 - (v) renewable hybrid power plant irrespective of the fuel used.

- separately for installations with installed capacity up to 1 MW and above 1 MW as well as separately for electricity generated in RES installations commissioned before 1 July 2016 and after that date;
- b) auction within given basket is carried out in given year if there is a budget (i.e. total volume and value of electricity that may be purchased in given year) allocated for this basket by way of the regulation issued by the Council of Ministers or directly in the statute (for planned budgets for 2019 auctions see Section VII below);
 - c) RES operator planning to submit offer within the RES auction is obliged to provide security in the form of bank guarantee or security deposit (pl. kaucja) in amount of PLN 60 per each kilowatt of installed capacity of the new RES Installation; the security has to be provided in such an advance which allows for its verification by the Polish NRA before the completion of the particular auction session (it can be submitted even before the particular auction is announced) and should meet the requirements specified in the Auction Rules developed by the NRA; the security is released, upon the request of the RES operator, within 60 days from the commissioning of the RES Installation (in case of the RES operator whose offer was selected within the auction) or within 14 days from the completion of the auction (in case of RES operator whose offer was not selected)
 - d) selection of the offers within the auction is based on the criterion of the lowest unit price offered for renewable energy up to the total volume allocated to the basket and in case of the same unit price offered – based on the criterion of the time of submission of the offer; in case the remaining volume of energy 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 (it effectively means that the offers are accepted exclusively in their entirety – if the last offer in the queue exceeds the amount of energy (or its value) available within the budget, such offer is dismissed and the relevant part of the budget is not used within this particular auction); the total value and volume of offers selected within the auction must not exceed: (a) the budget allocated for such auction as well as (b) 80% of an aggregate volume of electricity covered by all the offers submitted within given auction.
 - e) the price offered within the auction cannot exceed the so-called “reference price” established by the government on annual basis separately for each technology in order to avoid overcompensation of the beneficiary; the offers providing for prices higher than the reference price shall be rejected (for further information on the planned reference prices in the 2019 auctions please see Section VII below);
 - f) the fixed price for electricity agreed within the auction is binding on the parties within the whole incentive period (15-year or shorter if the Minister of Energy decides so with respect to RES installations selected within the auction in a given year) save for yearly indexation of such price with annual average index of retail prices of consumer goods and services, described by President of Central Statistical Office;
 - g) the auction price used for the purpose of calculation of the Compensation after the auction shall be decreased by the amount of the investment state aid in order to avoid overcompensation of the project;
 - h) the fixed volume of purchased electricity agreed within the auction for each year is binding on the parties within the whole incentive period (15-year or shorter if the Minister of Energy decides so with respect to RES installations selected within the auction in a given year), it does not include electricity generated before issuance of the generation license and would be verified after each three-year settlement period and upon completion of the entire incentive period; the quantity of electricity covered by the compensation rights shall be however decreased by the volumes generated in those hours for which an average market price quoted on the day-ahead market is negative for at least 6 subsequent hours;

- i) the transfer of the title to the RES Installation together with the auction success (rights and obligations resulting thereunder) is admissible upon the consent of the Polish NRA, which is granted if the purchaser meets the formal criteria to operate the installation and there is no justified risk that the purchaser will not perform the obligations connected with the RES auction incentive scheme; the changes in the shareholders structure of the winning RES operator do not affect the validity of the certificate (but the change of control may require customarily consents from other authorities such as antimonopoly clearance or consents granted under the Act of 24 July 2015 on control of certain investments if the target is subject to protection based on that act)
- j) devices installed in onshore wind power plants are to be manufactured not earlier than 24 months (previously – 48 months) before the first electricity generation in such wind power plant and the first electricity generation should occur not later than 30 months from closing of the respective RES auction session (previously – 48 months) under the pain of return of the entire support (forfeiture of the security). In case of PV installations the devices must be manufactured not earlier than 18 months before the first electricity generation which must occur not later than 18 months from the closing of the respective RES auction session; on case of other installations, the respective periods are 36 months, save for offshore wind where the periods are 72 (for both manufacturing of components and commissioning);
- k) modernization incentivized under the auction scheme may involve reconstruction of the installation, such reconstruction being allowed to benefit from the scheme if it is carried out after completion of the previous incentive period applicable to the installation under the Green Certificate and/or auction incentive schemes (modernization of the installation still benefiting from the incentive scheme may not compete with other project and benefit from the new auction by end of the previous incentive period);
- l) auctions are carried out in accordance with the Auction Rules developed by the Polish NRA and approved by the Minister of Energy and specifying certain detailed rules applicable within the auctions (e.g. form of communication and offering, persons authorized to sign the offer, requirements applicable to collaterals and its verification).

[2018 reference prices] As regards the 2018 auctions the following reference prices were applicable:

Type of RES installation	Reference price [PLN/MWh]		Reference price [EUR/MWh]*	
	RES installations	Modernised RES installations	RES installations	Modernised RES installations
Agricultural biogas <500kW	630	630	151,08	151,08
Agricultural biogas ≥500kW	570	570	136,69	136,69
Agricultural biogas >1MW	550	550	131,89	131,89
Landfill biogas <500kW	560	560	134,29	134,29
Landfill biogas ≥500kW	550	550	134,29	134,29
Sewage treatment plant biogas <500kW	420	420	100,72	100,72
Sewage treatment plant biogas ≥500kW	385	385	92,33	92,33
Biogas not specified above <500kW	420	420	100,72	100,72
Biogas not specified above ≥500kW	385	385	92,33	92,33
Biomass in dedicated biomass combustion installations and hybrid power plants	415	415	99,52	99,52

Biomass, biofuels, biogas or agricultural biogas in dedicated multi-fuel combustion installations	325	325	77,94	77,94
Biomass in CHP dedicated biomass combustion installations and CHP hybrid power plants ≤50MW	450	450	107,91	107,91
Biomass in CHP dedicated biomass combustion installations and CHP hybrid power plants >50MW	435	435	104,32	104,32
Biofuels	475	475	113,91	113,91
Onshore wind farm ≤1MW	320	310	76,74	74,34
Onshore wind farm >1MW	350	350	83,93	83,93
Hydro power plants ≤1MW	500	500	119,90	119,90
Hydro power plants >1MW	480	480	115,11	115,11
Geothermal power plant	455	455	109,11	109,11
Solar ≤1MW	420	420	100,72	100,72
Solar >1MW	400	400	95,92	95,92
Offshore wind farm	450	450	107,91	107,91
Renewable hybrid power plant irrespective of the fuel used ≤ 1 MW	415	415	99,52	99,52
Renewable hybrid power plant irrespective of the fuel used > 1 MW	410	410	98,32	98,32

[2018 RES auction] As regards the 2018 auctions the following budgets were available:

	Type of RES installation (auction basket)	Date of commissioning and/or modernization	AUCTION 2018	
			Maximum volume [MWh]	Maximum value [PLN]
1.	RES Installations with installed capacity ≤1MW, generating electricity using: (a) non-agricultural biogas with installed capacity not exceeding 500 kW or exceeding 500 kW, (b) hybrid power plants and/or biomass in dedicated biomass combustion installations and hybrid power plants, (c) biomass, biofuels, biogas or agricultural biogas in dedicated multi-fuel combustion installations, (d) waste thermal treatment units as well as (e) biomass in CHP dedicated biomass combustion installations and CHP hybrid power plants	Commissioned by 1 July 2016	915 336	512 588 160
		Commissioned after completion of auction	13 311 000	5 507 985 000
		Modernized	0	0
2.	RES Installations with installed capacity ≤1MW: (a) hydro power plants, (b) geothermal power plant, (c) offshore wind farms as well as (d) power plants using exclusively biofuels	Commissioned by 1 July 2016	1 475 211	767 716 880
		Commissioned after completion of auction	3 750 000	1 895 250 000
		Modernized	0	0
3.	RES Installations with installed capacity ≤ 1MW generating electricity using agricultural biogas	Commissioned by 1 July 2016	1 149 296	655 098 834
		Commissioned after completion of auction	11 700 000	7 160 400 000
		Modernized	0	0

	Type of RES installation (auction basket)	Date of commissioning and/or modernization	AUCTION 2018	
			Maximum volume [MWh]	Maximum value [PLN]
4.	Onshore wind farms and PV installations with installed capacity ≤ 1MW	Commissioned by 1 July 2016	0	0
		Commissioned after completion of auction	16 065 000	6 243 300 000
		Modernized	0	0
5.	Renewable hybrid power plant irrespective of the fuel used with installed capacity ≤ 1MW	Commissioned by 1 July 2016	0	0
		Commissioned after completion of auction	1 140 000	473 100 000
		Modernized	0	0
6.	RES Installations with installed capacity >1MW, generating electricity using: (a) non-agricultural biogas, (b) hybrid power plants and/or biomass in dedicated biomass combustion installations, (c) biomass, biofuels, biogas or agricultural biogas in dedicated multi-fuel combustion installations, (d) waste thermal treatment units, as well as (e) biomass in CHP dedicated biomass combustion installations and CHP hybrid power plants;	Commissioned by 1 July 2016	33 864 470	14 203 623 881
		Commissioned after completion of auction	57 699 309	24 929 301 412
		Modernized	0	0
7.	RES Installations with installed capacity with >1MW: (a) hydro power plants, (b) geothermal power plant, (c) offshore wind farms as well as (d) power plants using exclusively biofuels	Commissioned by 1 July 2016	0	0
		Commissioned after completion of auction	5 400 000	2 592 000 000
		Modernized	0	0
8.	RES Installations with installed capacity >1MW generating electricity using agricultural biogas	Commissioned by 1 July 2016	1 467 617	807 189 350
		Commissioned after completion of auction	3 510 000	1 930 500 000
		Modernized	0	0
9.	Onshore wind farms and PV installations with installed capacity >1MW	Commissioned by 1 July 2016	0	0
		Commissioned after completion of auction	45 000 000	15 750 000 000
		Modernized	0	0
10.	Renewable hybrid power plant irrespective of the fuel used with installed capacity > 1MW	Commissioned by 1 July 2016	0	0
		Commissioned after completion of auction	10 260 000	4 206 600 000
		Modernized	0	0
IN TOTAL:			174 906 930	54900666427

[2018 auction results] Based on the abovementioned parameters the following support has been allocated within 2018 RES auctions.

AUCTION SESSION IN 2018*	Date of auction	Number of winning offers	Maximum price of the winning offer	Minimum price of the winning offer	Total volume of electricity sold within the auction [MWh]	Total value of electricity sold within the auction [PLN]
RES Installations with installed capacity ≤ 1MW generating electricity using agricultural biogas	14 November 2018	29	PLN 569.69 / MWh	PLN 538.86 / MWh	3 489 766.000	1 972 333 472.66
			Weighted average price: PLN 565.18 / MWh			
Onshore wind farms and PV installations with installed capacity ≤ 1MW	15 November 2018	554	PLN 364.99 / MWh	PLN 288.99 / MWh	8 169 917.016	2 878 556 631.19
			Weighted average price: PLN 352.34 / MWh			
RES Installations with installed capacity >1MW, generating electricity using: (a) non-agricultural biogas, (b) hybrid power plants and/or biomass in dedicated biomass combustion installations, (c) biomass, biofuels, biogas or agricultural biogas in dedicated multi-fuel combustion installations, (d) waste thermal treatment units, as well as (e) biomass in CHP dedicated biomass combustion installations and CHP hybrid power plants	6 November 2018	1	–	PLN 400.00 /MWh	972 000.000	388 000 000.00
RES Installations with installed capacity with >1MW: (a) hydro power plants, (b) geothermal power plant, (c) offshore wind farms as well as (d) power plants using exclusively biofuels	19 November 2018	5	PLN 479.99 / MWh	PLN 418.70 /MWh	816 000.075	378 903 031.35
			Weighted average price: PLN 464.34 / MWh			
RES Installations with installed capacity >1MW generating electricity using agricultural biogas	20 November 2018	3	PLN 517,00 / MWh	PLN 496.00 /MWh	717 280.000	362 334 336.00
			Weighted average price: PLN 505.15 / MWh			
Onshore wind farms and PV installations with installed capacity >1MW	5 November 2018	31	PLN 216,99 / MWh	PLN 157.80 / MWh	41 996 771.921	8 238 365 894.35
			Weighted average price: PLN 196,17 / MWh			

*The President of ERO announced auction sessions for 13 technological baskets in 2018. Nevertheless, 7 out of 13 auction sessions remained unsettled because of the failure to submit the required number of offers which would fulfill the conditions set out in the RES Act.

The information on budgets, reference prices and results of RES auction session held in the years 2016-2017 are available in the **Schedule 1**. The results of all auction session are also available at: <https://www.ure.gov.pl/pl/rynki-energii/energia-elektryczna/aukcje-oze/6573,Komunikaty-i-ogloszenia.html>.

[Budgets after 2018] Currently there are no approved budgets to be allocated within the RES auctions in years following 2018. Nevertheless, in its approval of the revised Polish RES auction regime the European Commission stated that:

- a) “the total budget for the scheme is PLN 40 billion (approximately EUR 9.2 billion) with respect to RES support”;
- b) “support under the RES support scheme may be granted in the auctions that can be organized no later than 30 June 2021 (the day of settlement of the auction is decisive in this respect)”.

Moreover, as specified in detail in **Section VII** below, the Bill of Amendments amending the RES ACT, which was adopted by Sejm (lower chamber of Polish Parliament) on 19 July 2019 and then Senate (higher chamber of Polish Parliament) is now awaiting the signature by the President, provides for the new budgets to be allocated to 2019 RES Auction.

[Penalty for delay in commissioning] First sale of the electricity from the new RES installation developed upon the success in the auction should occur not later than within 36 months (save for solar energy where the deadline is 18 months, onshore wind installations where the deadline is 30 months and offshore wind installations where the deadline is 72 months) following the auction, such commitment being secured with bank guarantee or money deposit in the amount of PLN 60/kW of the installed capacity. Failure to commence sale of RES electricity from RES Installation within the statutory deadline would result in deprivation of the Compensation right and loss of the auction security as well as 3-year prohibition on participation in the auction-based incentive scheme.

Please also note that the winning project will be entitled to update the interconnection agreement in order to postpone the deadline for first generation arising from such agreements until at least the deadline arising from the auction (i.e. 18 months for PV, 30 months for onshore wind, 72 months for offshore wind and 36 months for other installations) – if only the deadline actually specified in the interconnection agreement is earlier than the deadline for the first sale of electricity arising from the auction rules.

[Investment state aid] Total level of state aid granted under the auction scheme will be decreased by the investment (but not the operational) state aid granted to the project. As a result, the auction price used for the purpose of settlements with the RES operator after the auction (for the purpose of payments made by the “obligated supplier” or reimbursement of the difference between the auction price and the market price of electricity) shall be decreased by the amount of the investment state aid.

[Compensation settlements] Compensation settlements between the winning RES operator and Zarządca Rozliczeń S.A. (Settlement Operator) are made upon the statutory provisions and auction success which means that there is no written agreement concluded between the winning RES operator and the Settlement Operator (or Polish NRA or the government). Payment of the compensation is secured by way of the “RES fee” collected by the DSOs/TSO from the end-users of the Polish electricity system, it being specified that the rates of such RES fee are adjusted by the Polish NRA at least once a year based on the forecasted premiums/subsidies to be distributed within the scheme within the next week.

Compensation is settled on monthly basis upon application submitted by the RES operator within 10 days from end of the month subject to the settlement. The Compensation for given month would be the sum of daily compensations being calculated as the product of:

- a) volumes of electricity actually generated, fed into the transmission/distribution grid and sold within each day of given month (subject to deduction of (i) the overload electricity, i.e. the electricity production exceeding the declared maximum capacity of the RES installation, as well as (ii) electricity generated in those hours when the weighted average electricity prices quoted at the day-ahead and two-days-ahead market were negative for at least 6 subsequent hours as well as subject to the qualification that the volumes taken into account for the purpose of the

settlements in given calendar year cannot exceed the volume specified for such year in the auction offer and cannot include volumes questioned by the Polish NRA as not eligible to the Compensation);

b) daily difference between:

- the price agreed within the auction (as decreased by the investment state aid granted to the project and then adjusted with the CPI index); and
- daily arithmetic average of all weighted average hourly electricity prices quoted at the commodity exchange in the day-ahead and two-days-ahead transactions (currently published as the TGEBase index).

If the amount of Compensation for given month is negative (i.e. market price of electricity in given month is higher than the price arising from the auction), such balance is settled with positive amount of Compensation in subsequent months or – if there is no such positive amount of Compensation – it is returned to the Settlement Operator in 6 monthly installments upon completion of the incentive period. Upon completion of the incentive period, the RES operator may obviously continue commercial sale of electricity from the RES Installation.

[Penalty for generation shortfall] If the generation from the RES Installation selected within the auction falls in any 3-year settlement period below 85% of the volume offered within the auction and accruing to such period, the beneficiary (operator of the RES Installation) shall be subject to financial penalty in the amount calculated as: $0.5 * C_A * (E_{OA} - E_{WA})$, where:

- C_A - price offered within the auction for electricity generated from respective RES installation,
- E_{OA} - volume of electricity to be generated from respective RES installation within given 3-year settlement period in accordance with offer submitted in the auction,
- E_{WA} - volume of electricity actually generated from respective RES installation and fed into the grid within given 3-year settlement period.

As a result, the financial penalty would be calculated based on the entire missing volume of electricity, including the admissible 15% shortfall.

Liability for the shortfall might be mitigated to the extent that such shortfall was caused by: (a) restrictions imposed by way of the generally binding laws, (b) curtailments introduced due to need to ensure secure operation of the electricity grid, (c) failure within the electricity system, (d) Force Majeure consisting of natural disasters, war, terrorism, riots, breakdown of the nuclear power plant, (e) technical breakdown of the RES Installation which is sudden, unforeseen and independent of the RES operator. It effectively means that the RES operator incurs risk of i.a. lack of primary energy (e.g. wind).

[Sanctions for incompliance of RES Installation parameters] Incompliance of actual status of the RES Installation with the statements or information provided by the RES operator at the stage of the pre-qualification to the auction scheme and/or included in the auction offer or information to be notified after the auction (such as information on characteristic parameters of the RES Installation and/or statements on fuels used to generate electricity, and/or declared total level of state aid granted to the RES operator and/or annual volumes and prices offered within the auction and actually taken into account for the purpose of the Compensation settlements) may result in deprivation of Compensation right in whole or in part (i.e. no subsidy granted or obligation to return subsidy as the case may be) with respect to the volumes of electricity which are qualified by the President of ERO as not being subject to Compensation.

IV. Feed-in tariff and feed-in premium tariff

[FIT for microinstallations] The RES Act provides also for separate incentives addressed to the so-called “micro-installations”, i.e. RES Installations with installed capacity not exceeding 50 kW. In particular, the RES Act provides for a general feed-in tariff for micro-installations under which the “obliged suppliers” shall purchase electricity generated from micro-installations at a price equal to 100% of the average electricity market price as announced by the President of the ERO for the previous quarter, such obligation to be limited with respect to any given micro-installation to 15 years.

[FIT/FIP for certain biogas and hydro installations] The 2018 amendments to the RES Law introduced an additional RES incentive schemes, including guaranteed feed-in tariffs (FIT) or feed-in premium tariffs (FIP), which would be available to certain “micro-installations” and “small installations” (installed capacity below 0.5MW) as well as other RES Installations with installed capacity below 1 MW until 31 December 2035 as follows:

- (a) under the new FIT incentive scheme, the operators of the “micro-installations” and “small installations” (installed capacity below 0.5MW) using biogas and/or hydropower would be entitled to sell the unused electricity generation to the “obliged suppliers” for the price equal to 90% of the applicable reference price (subject to possible adjustments due to the investment state aid which will decrease the price similarly as in case of the auction-based incentive scheme);
- (b) under the new sliding FIP incentive scheme, the operators of the hydro and biogas-fueled RES Installations with installed capacity $0.5 \text{ MW} \leq P < 1 \text{ MW}$ would be entitled to sell the RES electricity to any purchaser and claim for Compensation payable by the SO in the amount equal to the difference between: (a) the product of: volume of electricity actually delivered to the grid and 90% of the applicable reference price and (b) market value of the same electricity calculated based on average daily prices of electricity quoted at the commodity exchange in the day-ahead and two-days-ahead transactions; the foregoing FIP scenario may be also elected by the entities specified in point (a) above, i.e. micro- and small installations.

The RES operators applying for the FIT/FIP benefits with respect to the new (non-commissioned) installations will be obliged to provide security (reservation payment) in the amount of PLN 30/kW.

According to the Bill of Amendments (discussed in Section VII below) the scope of technologies covered by FIT and FIP schemes is to be extended and the price used for settlements under the FIT and FIP system will be increased.

V. Onshore windfarm distance requirements

The law in force provides that the onshore wind farms not meeting the 10H-distance requirement are to obtain the use permit by 16 July 2021 or otherwise the building permits covering those installations expire (with obligation to decommission structures already developed). However, according to the Bill of Amendments (discussed in **Section VII** below) adopted by Sejm on 19 July 2019 (not signed by the President yet), the failure to meet the abovementioned deadline with respect to the onshore wind farms where the construction works have not been started or have been suspended, the construction permit will not expire if by 16 July 2024 the investor will start or re-start the construction works.

The construction permits for the projects being still under development may be also amended if it does not result in increase of the environmental impact. On the other hand, the operational onshore wind farms could not be modernized if such modernization results in increase of the installed capacity and/or environmental impact.

VI. Offshore windfarm incentive scheme

Under current regulations, the offshore wind farms are expected to benefit from the auction-based incentive scheme provided for in the RES Law as described in **Section III** above. However, representatives of the current government have unofficially stated that legislative work on a new incentive scheme specifically designed for offshore wind farms is ongoing. Such new scheme might be adopted in 2019 and might include: (a) an individual support mechanism for specific most advanced projects, and (b) a more complex state aid program available for most competitive projects - both subject to the European Commission's consent to, respectively, individual state aid or complex state aid program. In particular, according to Mr. Grzegorz Tobiszowski, the former Secretary of the State in the Ministry of Energy, and Mr. Andrzej Kaźmierski, the former Director in the Ministry of Energy, the Government expects development of 8 GW installed in the offshore wind farms by 2035 while the draft bill regulating this new incentive scheme would be revealed and passed to the Polish Parliament (as well as notified to the European Commission) as early as in the 3st/4st quarter of 2019. According to those statements, such bill, once adopted, should allow development of most advanced projects based on the state aid in a form of the contract for difference notified to and accepted by the European Commission for each project individually. It is further expected that the offshore wind farm projects which are less advanced would compete within the auctions for development of the offshore wind farms where the permitting and connection of the offshore wind farm would be ensured mostly by, respectively, the state/TSO in order to minimize support granted within the auction.

VII. The 2019 Bill of Amendments to the RES ACT

The existing RES incentive schemes are expected to be further rearranged by way of the bill of amendments to the RES Act, which was adopted by Sejm on 19 July 2019 and approved by Senat on 1 August 2019 (the "**Bill of Amendments**"). Apart from correcting several legislative errors in the existing RES Act, the Bill of Amendments proposes the following :

Amendments to the certificate-based incentive scheme

[The new redemption quota for the Green Certificates] The Bill of Amendments proposes the redemption quotas for the Green Certificates in 2020 at the level of 19.50% (according to the secondary legislation to the RES Act, the redemption quota for 2019 would be equal to 18.50%). The Bill of Amendments does not provide for any changes when it comes to the level of redemption quota concerning Blue Certificate – it would remain at the level of 0.5 %.

Amendments to the auction-based incentive scheme

1. **[Extension of the final date of the support period]** The Bill of Amendments proposes that the new final date of the 15-year support period under the RES auction scheme be 30 June 2039 (currently 31 December 2035).
2. **[New procedure of preparing the Terms of the Auction]** According to the Bill of Amendments, prior to the announcement of the Terms of Actions, the President of ERO would be obligated to agree with the Minister of the Energy the main parameters of the auction (i.e. the date of the auction; volume and value of energy offered within a specific auction). It means that the Minister of the Energy would have the final word as regards the parameters of the specific auction sessions.
3. **[Form of 2019 RES auctions]** The Bill of Amendments provides for the possibility to conduct the 2019 RES auctions in non-electronic form.

4. **[Simplifying the pre-qualification procedure]** According to the Bill of Amendments, the RES operator will not be obligated to present the decision on the environmental conditions of the RES installation nor the excerpt from the local zoning plan at the stage of the pre-qualification procedure. Moreover, according to Art. 16 of the Bill of Amendments, the statutory requirements concerning the minimum validity period of the grid connection agreement shall not apply with respect to the pre-qualification proceedings started and not completed before the entry into force of the Bill of Amendments.
5. **[One-time possibility to modify the parameters specified in the auction offer]** The Bill of Amendments proposes that the RES operator could amend the parameters specified in its auction offer after completion of the auction session as regards: (i) the duration of the requested support period; (ii) installed power of the RES installation unless it affects the primary allocation of the installation to specific auction basket or the declared volume of the electricity to be generated in the installation. The relevant declaration should be submitted to the President of ERO, obligated supplier and the Settlement Operator no later than: (i) 30 days before the first electricity sale – with respect to the installations with installed capacity not exceeding 0.5 MW or all the biogas-fueled installations, or (ii) 30 days before submitting the first application for the payment of negative balance – in case of the RES installations of greater capacity.

The proposed solution is to meet the expectations of the RES operators, who have been indicating on numerous occasions that the auction-based incentive scheme should take into account the technological progress which may occur in the period between the pre-qualification procedure and the date of commissioning of the RES installation.

6. **[Amendments as to the required manufacturing date of devices]** The Bill of Amendments extends the maximum period between the date of manufacturing of devices to be installed in the RES installation and the first electricity generation in such RES installation from 36 months to 42 months (save for solar energy where the deadline is to be extended from 18 months to 24 months, onshore wind installations where the deadline is to be extended from 24 months to 33 months and offshore wind installations where the deadline is 72 months).

Moreover, according to the Bill of Amendments, the RES operator will only be entitled to obtain a generation concession for the production of renewable energy in certain RES installation if the devices installed in such new installation (or within the modernization of the installation): (i) are manufactured no later than 72 months before the first electricity generation in such RES installation, (ii) are accompanied with the confirmation of their compliance with the certified type of the device or with the conformity assessment proving compliance with respective norms issued by the manufacturer. The foregoing condition will enter into force as of 1 January of 2020.

7. **[The extension of the deadline for the first sale of electricity]** Moreover, according to the Bill of Amendments, the deadline for the first sale of electricity will be also extended from 36 months to 42 months (save for solar energy where the deadline is to be extended from 18 to 24 months, onshore wind installations where the deadline is to be extended from 30 to 33 months and offshore wind installations where the deadline is 72 months) starting from the completion of the auction session. This extension applies also to the RES installations which succeeded in the RES auctions organized before the entry into force of the Bill of Amendments.

Also, if particular RES installation succeeds in the RES Auction, its operator – according to the Bill of Amendments - would be entitled to request the grid operator for (and the grid operator will be obliged to make) the amendment of the grid connection agreement in the scope of the contractual deadline for the first delivery of the electricity generated in such RES installation to the grid to make it compliant with the abovementioned statutory deadline for the first electricity sale. In addition, with respect to the grid connection agreements concluded before 4 May 2015, which have not been performed yet (and have not been terminated before the entry into force of the Bill of Amendments),

the Bill of Amendments states that the grid operator - at the request of the RES Operator submitted not later than 3 months from the entry into force of the Bill of Amendments - has to postpone the contractual deadline for the first delivery of the electricity to the grid, which however cannot be later than 30 June 2021.

Finally, the Bill of Amendments expressly confirms that the possibility to obtain the support within the RES-auction scheme is excluded if the first electricity generation in the RES installation, which won the RES auction, and delivery of such electricity to the grid occurs later than 42 months from the completion of the respective RES auction session (save for solar energy where the deadline is now 24 months, onshore wind installations where the deadline is now 33 months and offshore wind installations where the deadline is 72 months).

8. **[Deadline for the announcement of the RES auction results]** The Bill of Amendments establishes the time limit of 14 days for the President of ERO to publish the result of the specific RES auction session or notification of its cancellation.
9. **[Form of transferring data to the Settlement Operator]** The Bill of Amendments confirms the possibility to provide the Settlement Operator with the request for the payment of a negative balance in the electronic form.
10. **[Ambiguity as to principles of returning the support in case of positive balance]** The Bill of Amendments in its initial version, as proposed by the government in February 2019, stated that in situation where due to high level of market electricity prices, it is not possible to settle up a negative balance paid at the beginning of the settlement period (so called “positive balance”), the maximum sum to be returned by the RES operator cannot exceed the amount of funds granted to the RES operator. According to the justification for such initial version of the Bill of Amendments, the aim of the proposed modification in the given respect was just to merely clarify (confirm) the current provisions of the RES Act concerning settlement of the balance with the Settlement Operator.

However, during the parliamentary works concerning the Bill of Amendments the abovementioned modification has been removed. Thus the ambiguity remains whether the price specified in the RES auction offer should work only as a guarantee of the minimal income for the RES operator or whether the authorities, due to the abovementioned corrections which took place during the parliamentary works concerning the Bill of Amendments, will adopt the interpretation which will pose the risk that at the end of the settlement period the RES operator may, in theory, be obliged to pay to the Settlement Operator more money than it has ever received under the auction-scheme (i.e. in situation where during the whole support period the electricity price at the wholesale market is higher than the price offered within the RES auction).

11. **[Auction price – net value]** The Bill of Amendments clarifies that the electricity prices provided for the purpose of conducting or participating in the RES auctions are to be specified as net value.
12. **[Clarified scope of obligation to feed whole generated electricity to the grid]** To eliminate doubts raised by numerous market players, the Bill of Amendments also clarifies that the statutory obligation to feed into the grid whole electricity generated in the RES installation until 31 December 2020 does not pertain to the operators of all new RES installations but only to those which generated electricity for the first time before the date of the RES auction in which they are willing to participate.

Other significant amendments specified in the Bill of Amendments

13. **[Extended rebates scheme and facilitations for prosumers and energy cooperatives]** The Bill of Amendments extends the rebate scheme (i.e. possibility to consume energy from grid in return for energy previously fed into that grid) to the entrepreneurs producing RES electricity in the micro-installation - if only such generation is not the prevailing activity of the entrepreneur. Besides, the

rebate scheme shall be also extended and clarified with respect to the energy cooperatives which will be entitled to settle the RES energy generated by such energy cooperative and/or its members and transferred over the distribution grid, such settlement being available based on the agreement with the obligated suppliers.

The Bill of Amendments differentiates the exchange rates applicable to specific producers entitled to participate in the rebate scheme:

- (i) with respect to energy cooperatives: **1 kWh** of electricity fed into the grid = **0.6 kWh** of electricity consumed from the grid for free;
- (ii) with respect to prosumers operating RES micro-installations with installed capacity exceeding 10 kW: **1 kWh** of electricity fed into the grid = **0.7 kWh** of electricity consumed from the grid for free;
- (iii) with respect to prosumers operating RES micro-installations with installed capacity up to 10 kW: **1 kWh** of electricity fed into the grid = **0.8 kWh** of electricity consumed from the grid for free.

According to the Bill of Amendments, the volumes of energy settled within the rebates scheme (i.e. consumed from the grid by the cooperative or its members in exchange for energy fed into the grid) by the energy cooperative will be also exempted from the following costs:

- (i) the distribution costs dependent on the amount of consumed energy (e.g. variable distribution fee, RES fee, CHP fee, capacity fee);
- (ii) costs related to the settlement of such energy volumes by the obligated supplier.

- 14. [Extension of technologies included in FIT and FIP system]** According to the Bill of Amendments, the micro-installation or small installation with installed capacity not exceeding 0.5 MW using only biomass for electricity production could be included into the Feed-In-Tariff incentive scheme, while the installations with installed capacity exceeding 0.5 MW but not exceeding 1 MW could benefit from the Feed-in-Premium scheme.

Moreover, according to the Bill of Amendments, the FIP scheme will be available also to the RES hydro power plants with installed capacity up to 2.5 MW.

The Bill of Amendments also states that the fixed purchase price which is used as a settlement price under the FIT scheme and is used for calculating the settlement price under the FIP scheme will be increased from 90% to 95 % of the reference price for micro/small installations up to 0.5 MW while the fixed purchase price for installations with higher capacity will be equal to 90 % of the reference price established for particular installation. The abovementioned increase shall apply also to the RES operators who submitted the declarations of participation in FIT/FIP scheme before the Bill of Amendments enters into force.

- 15. [Strengthened role of the guarantees of origin]** The Bill of Amendments strengthens the role of the guarantee of origin by introducing the principle according to which confirmation of the origin of energy from renewable energy sources to the final recipients (as well as confirmation of avoided emission of greenhouse gases) is possible only after redemption of the guarantee origin. The intention of the Bill of Amendments is to prevent the repeated use of the same guarantee of origin.

- 16. [No required content of agricultural biomass in selected biomass installations]** The Bill of Amendments reduces to 0% the minimum required content of agricultural biomass with respect to the biomass used as a fuel in (i) multi-fuel combustion installations, dedicated biomass combustion installations with installed capacity exceeding 5 MW, as well as (ii) dedicated biomass combustion installations and hybrid power plants with installed capacity exceeding 20 MW, if such biomass constitutes waste or residues from of biological origin from forestry and related industries and it is being incinerated in the place where it was generated.

17. [Prolonging the date for starting or re-starting construction works under the building permit issued for onshore windfarms not meeting the 10H distance requirement] The law in force provides that the onshore wind farms not meeting the 10H-distance requirement are to obtain the use permit by 16 July 2021 or otherwise the building permits covering those installations expire (with obligation to decommission structures already developed). However, according to the Bill of Amendments, the failure to meet the abovementioned deadline with respect to the onshore wind farms where the construction works have not been started or have been suspended, the construction permit will not expire if by 16 July 2024 the investor will start or re-start the construction works.

Irrespective of the above, the Bill of Amendments proposes the following budgets to be allocated to the RES operators within 2019 RES Auctions:

	Type of RES installation (auction basket)	Date of commissioning and/or modernization	AUCTION 2019	
			Maximum volume [MWh]	Maximum value [PLN]
1.	RES Installations with installed capacity ≤ 1 MW, generating electricity using: (a) non-agricultural biogas, (b) hybrid power plants and/or biomass in dedicated biomass combustion installations and hybrid power plants, (c) biomass, biofuels, biogas or agricultural biogas in dedicated multi-fuel combustion installations, (d) waste thermal treatment units, as well as (e) biomass in CHP dedicated biomass combustion installations and CHP hybrid power plants	Commissioned by 1 July 2016	1 120 000	694 400 000
		Commissioned after completion of auction	0	0
		Modernized	0	0
2.	RES Installations with installed capacity ≤ 1 MW: (a) hydro power plants, (b) geothermal power plant, (c) offshore wind farms as well as (d) power plants using exclusively biofuels	Commissioned by 1 July 2016	1 475 211	811 366 050
		Commissioned after completion of auction	140 400	71 280 000
		Modernized	0	0
3.	RES Installations with installed capacity ≤ 1 MW generating electricity using agricultural biogas (including high-efficiency CHP units)	Commissioned by 1 July 2016	1 149 296	838 986 080
		Commissioned after completion of auction	1 341 821	939 274 880
		Modernized	0	0
4.	Onshore wind farms and PV installations with installed capacity ≤ 1 MW	Commissioned by 1 July 2016	0	0
		Commissioned after completion of auction	11 445 000	4 213 650 000
		Modernized	0	0
5.	Renewable hybrid power plant irrespective of the fuel used with installed capacity ≤ 1 MW	Commissioned by 1 July 2016	0	0
		Commissioned after completion of auction	0	0
		Modernized	0	0

	Type of RES installation (auction basket)	Date of commissioning and/or modernization	AUCTION 2019	
			Maximum volume [MWh]	Maximum value [PLN]
6.	RES Installations with installed capacity > 1MW, generating electricity using: (a) non-agricultural biogas, (b) hybrid power plants and/or biomass in dedicated biomass combustion installations and hybrid power plants, (c) biomass, biofuels, biogas or agricultural biogas in dedicated multi-fuel combustion installations, (d) waste thermal treatment units, as well as (e) biomass in CHP dedicated biomass combustion installations and CHP hybrid power plants	Commissioned by 1 July 2016	34 000 000	20 740 000 000
		Commissioned after completion of auction	14 910 000	5 577 600 000
		Modernized	0	0
7.	RES Installations with installed capacity with >1MW: (a) hydro power plants, (b) geothermal power plant, (c) offshore wind farms as well as (d) power plants using exclusively biofuels	Commissioned by 1 July 2016	0	0
		Commissioned after completion of auction	594 000	285 120 000
		Modernized	0	0
8.	RES Installations with installed capacity >1MW generating electricity using agricultural biogas	Commissioned by 1 July 2016	3 433 219	2 197 260 000
		Commissioned after completion of auction	1 170 000	678 600 000
		Modernized	0	0
9.	Onshore wind farms and PV installations with installed capacity >1MW	Commissioned by 1 July 2016	0	0
		Commissioned after completion of auction	113 970 000	32 577 000 000
		Modernized	0	0
10.	Renewable hybrid power plant irrespective of the fuel used with installed capacity > 1MW	Commissioned by 1 July 2016	0	0
		Commissioned after completion of auction	0	0
		Modernized	0	0
IN TOTAL:			184 748 947	69 624 537 010

The reference prices for 2019 RES auctions have been specified in the regulation of the Minister of the Energy dated 15 May 2019 and they are as follows:

No.	Type of RES installation by fuel used (new installation and existing installation, modernized and not modernized)	Reference price [PLN/MWh]
1.	Agricultural biogas <500kW	650
2.	CHP using exclusively agricultural biogas <500kW	700
3.	Landfill biogas <500kW	560
4.	CHP using exclusively landfill biogas <500kW	620
5.	Sewage treatment plant biogas <500kW	420
6.	CHP using exclusively sewage treatment plant biogas <500kW	480
7.	Biogas not specified above <500kW	470
8.	CHP using exclusively biogas not specified above <500kW	530
9.	Hydro power plants < 500 kW	550
10.	Agricultural biogas ≥ 500 kW and ≤1MW	590
11.	CHP using exclusively agricultural biogas ≥ 500 kW and ≤1MW	670
12.	Agricultural biogas >1MW	570
13.	CHP using exclusively agricultural biogas > 1 MW	640
14.	Landfill biogas ≥500kW	550
15.	CHP using exclusively landfill biogas ≥500kW	610
16.	Sewage treatment plant biogas ≥500kW	385
17.	CHP using exclusively Sewage treatment plant biogas ≥500kW	445
18.	Biogas not specified above ≥500kW	435
19.	CHP using exclusively biogas not specified above ≥500kW	495
20.	Biomass in dedicated biomass combustion installations and hybrid power plants	435
21.	Waste thermal treatment unit or dedicated multi-fuel combustion installations	350
22.	Waste thermal treatment unit, dedicated biomass combustion installation, hybrid power plants, CHP units ≥ 50 MW	470
23.	Waste thermal treatment unit, dedicated biomass combustion installation, hybrid power plants, CHP units < 50 MW	435
24.	Biofuels	475
25.	Onshore wind farm ≤1MW	320
26.	Onshore wind farm >1MW	285
27.	Hydro power plants ≥ 500 kW and ≤1MW	500
28.	Hydro power plants >1MW	480
29.	Geothermal power plant	455
30.	Solar ≤1MW	385
31.	Solar >1MW	365
32.	Offshore wind farm	450
33.	Renewable hybrid power plant irrespective of the fuel used ≤ 1 MW	415
34.	Renewable hybrid power plant irrespective of the fuel used > 1 MW	410

The Bill of Amendments, after being signed by the President, will enter into force in its major part after 14 days from its publication in the Journal of Laws (i.e. arguably at the end of August or at the beginning of September 2019), except for selected provisions which will enter into force a few months later (e.g. additional requirements concerning the procedure of obtaining the generation concession, as specified above in this **Section VII**, which are planned to enter into force on 1 January 2020).

Moreover, according to the Bill of Amendments, application of some provisions is suspended until such provisions are approved by the European Commission. That covers i.a. the provisions concerning: (i) amendments in FIT and FIP schemes, (ii) possibility of modifying the parameters specified in the auction offer, (iii) prolongation of the support period under the auction scheme – as discussed above in this **Section VII**.

SCHEDULE 1
TO THE LEGAL ALERT:

“POLISH INCENTIVE SCHEMES FOR RENEWABLE ENERGY GENERATION – AUGUST 2019”

PARAMETERS AND RESULTS OF 2016-2017 RES AUCTIONS

REFERENCE PRICES AND BUDGETS IN 2016-2017 AUCTIONS

The 2016-2017 RES auctions were carried out in accordance with the following parameters as regards the reference prices and budgets (please mind that the provisions applicable to the 2016-2017 RES auctions provided for different technological baskets than those specified for the RES auctions launched from 2018 onwards and certain budgets originally allocated to certain baskets within 2017 RES Auctions were thereafter cancelled as presented in the below tables with deletions):

Reference prices

Type of RES installation	Reference price [PLN/MWh]	Reference price [EUR/MWh]* * exchange rate EUR/PLN 4,31
Agricultural biogas ≤1MW	550	127.61
Agricultural biogas >1MW	550	127.61
Landfill biogas	405	93.97
Sewage treatment plant biogas	365	84.69
Biogas not specified above	355	82.37
Biomass in dedicated biomass combustion installations and hybrid power plants ≤50MW	415	96.29
Biomass, biofuels, biogas or agricultural biogas in dedicated multi-fuel combustion installations	325	75.41
Biomass in CHP dedicated biomass combustion installations and CHP hybrid power plants ≤50MW	450	104.41
Biomass in CHP dedicated biomass combustion installations and CHP hybrid power plants >50MWe and ≤150MWt	435	100.93
Waste incineration plants	385	89.33
Biofuels	475	110.21
Onshore wind farm ≤1MW	320	74.25
Onshore wind farm >1MW	350	81.21
Hydro power plants ≤1MW	480	111.37
Hydro power plants >1MW	480	111.37
Geothermal power plant	455	105.57
Solar ≤1MW	450	104.41
Solar >1MW	425	98.61
Offshore wind farm	470	109.05
Renewable hybrid power plant irrespective of the fuel used ≤ 1 MW	455	105.57
Renewable hybrid power plant irrespective of the fuel used > 1 MW	405	93.97

Auction budgets in 2016-2017

	Type of RES installation (auction basket)	Date of commissioning and/or modernization	AUCTION 2016		AUCTION 2017	
			Maximum volume [MWh]	Maximum value [PLN]	Maximum volume [MWh]	Maximum value [PLN]
1.	Installed capacity ≤1MW + load factor exceeding 3504 MWh/MW/annum irrespective of the technology used	Commissioned by 1 July 2016	0	0	1 659 047 0	556 174 673 0
		COMPLETED AND CANCELED AFTERWARDS				
		Commissioned after completion of auction	0	0	825 000 0	308 182 262 0
		Commissioned by 1 July 2016 and modernized after 1 July 2016	0	0	0	0
2.	Installed capacity ≤1MW using biodegradable waste fraction (waste incineration plants)	Commissioned by 1 July 2016	0	0	0	0
		Commissioned after completion of auction	0	0	0	0
		Commissioned by 1 July 2016 and modernized after 1 July 2016	0	0	0	0
		Commissioned after completion of auction and modernized after 1 July 2016	0	0	0	0
3.	Installed capacity ≤1MW and load factor exceeding 3504 MWh/MW/a and CO2 emission not exceeding 100 kg/MWh	Commissioned by 1 July 2016	1 306 870	538 297 239	1 484 764	631 329 732
		COMPLETED				
		Commissioned after completion of auction	0	0	540 000 0	299 025 631 0
		Commissioned by 1 July 2016 and modernized after 1 July 2016	0	0	0	0
4.	Clusters ≤ 1MW*	Commissioned by 1 July 2016	n/a	n/a	0	0
		Commissioned after completion of auction	n/a	n/a	0	0
		Commissioned by 1 July 2016 and modernized after 1 July 2016	n/a	n/a	0	0
		Commissioned after completion of auction and modernized after 1 July 2016	n/a	n/a	0	0

	Type of RES installation (auction basket)	Date of commissioning and/or modernization	AUCTION 2016		AUCTION 2017	
			Maximum volume [MWh]	Maximum value [PLN]	Maximum volume [MWh]	Maximum value [PLN]
5.	Energy cooperatives (pol. <i>spółdzielnie energii</i>) ≤1M*	Commissioned by 1 July 2016	n/a	n/a	0	0
		Commissioned after completion of auction	n/a	n/a	0	0
		Commissioned by 1 July 2016 and modernized after 1 July 2016	n/a	n/a	0	0
		Commissioned after completion of auction and modernized after 1 July 2016	n/a	n/a	0	0
6.	Installed capacity ≤1MW using agricultural biogas	Commissioned by 1 July 2016	2 113 887	1 262 797 422	1 149 296 0	683 370 550 0
		Commissioned after completion of auction	0	0	8 190 000 0	5 280 863 522 0
		Commissioned by 1 July 2016 and modernized after 1 July 2016	0	0	0	0
		Commissioned after completion of auction and modernized after 1 July 2016	0	0	0	0
7.	RES installations with installed capacity ≤1MW not qualified under the baskets 1)-6) above	Commissioned by 1 July 2016	0	0	0	0
		Commissioned after completion of auction	1 575 000	744 936 736	4 725 000	2 182 908 687
		COMPLETED				
		Commissioned by 1 July 2016 and modernized after 1 July 2016	0	0	0	0
		Commissioned after completion of auction and modernized after 1 July 2016	0	0	0	0
8.	Installed capacity >1MW and load factor exceeding 3504 MWh/MW/a irrespective of the technology used	Commissioned by 1 July 2016	0	0	10 502 338 0	3 768 589 370 0
		Commissioned after completion of auction	0	0	10 500 000 0	5 423 952 758 0
		Commissioned by 1 July 2016 and modernized after 1 July 2016	0	0	0	0
		Commissioned after completion of auction and modernized after 1 July 2016	0	0	0	0

	Type of RES installation (auction basket)	Date of commissioning and/or modernization	AUCTION 2016		AUCTION 2017	
			Maximum volume [MWh]	Maximum value [PLN]	Maximum volume [MWh]	Maximum value [PLN]
9.	Installed capacity >1MW using biodegradable waste fraction (waste incineration plants)	Commissioned by 1 July 2016	0	0	0	0
		Commissioned after completion of auction	0	0	4 644 000 0	2 242 015 403 0
		Commissioned by 1 July 2016 and modernized after 1 July 2016	0	0	0	0
		Commissioned after completion of auction and modernized after 1 July 2016	0	0	0	0
10	Clusters ≤ 1MW*	Commissioned by 1 July 2016	n/a	n/a	0	0
		Commissioned after completion of auction	n/a	n/a	0	0
		Commissioned by 1 July 2016 and modernized after 1 July 2016	n/a	n/a	0	0
		Commissioned after completion of auction and modernized after 1 July 2016	n/a	n/a	0	0
11.	Energy cooperatives ≤1M*	Commissioned by 1 July 2016	n/a	n/a	0	0
		Commissioned after completion of auction	n/a	n/a	0	0
		Commissioned by 1 July 2016 and modernized after 1 July 2016	n/a	n/a	0	0
		Commissioned after completion of auction and modernized after 1 July 2016	n/a	n/a	0	0
12.	Installed capacity >1MW and load factor exceeding 3504 MWh/MW/a and CO2 emission not exceeding 100 kg/MWh	Commissioned by 1 July 2016	0	0	0	0
		Commissioned after completion of auction	0	0	540 000 0	305 387 878 0
		Commissioned by 1 July 2016 and modernized after 1 July 2016	0	0	0	0
		Commissioned after completion of auction and modernized after 1 July 2016	0	0	0	0

	Type of RES installation (auction basket)	Date of commissioning and/or modernization	AUCTION 2016		AUCTION 2017	
			Maximum volume [MWh]	Maximum value [PLN]	Maximum volume [MWh]	Maximum value [PLN]
13.	Installed capacity >1MW using agricultural biogas	Commissioned by 1 July 2016	2 309 382	1 365 351 905	2 118 162 0	1 260 181 015 0
		Commissioned after completion of auction	0	0	3 510 000 0	2 263 227 224 0
		Commissioned by 1 July 2016 and modernized after 1 July 2016	0	0	0	0
		Commissioned after completion of auction and modernized after 1 July 2016	0	0	0	0
14.	RES installations with installed capacity >1MW not qualified under the baskets 8) –13) above	Commissioned by 1 July 2016	0	0	0	0
		Commissioned after completion of auction	0	0	5 175 000 0	1 972 413 921 0
		Commissioned by 1 July 2016 and modernized after 1 July 2016	0	0	0	0
		Commissioned after completion of auction and modernized after 1 July 2016	0	0	0	0
IN TOTAL:			7 305 139	3 910 483 302	46 950 507 6 209 764	22 698 184 704 2 814 238 419

RESULTS OF THE RES AUCTIONS COMPLETED IN 2016

AUCTION SESSION	RES installations commissioned by 1 July 2016 with installed capacity ≤1MW using agricultural biogas	RES installations commissioned by 1 July 2016 with installed capacity ≤1MW and load factor exceeding 3504 MWh/MW/a and CO2 emission not exceeding 100 kg/MWh	RES installations commissioned after of the completion auction with installed capacity ≤1MW not qualified under the baskets 1)-6) above
Date of auction session	30 December 2016	30 December 2016	30 December 2016
Number of winning offers	7	49	84
Maximum price of the winning offer	PLN 504.57 / MWh	PLN 468.00 / MWh	PLN 408.80 / MWh
Minimum price of the winning offer	PLN 502.23 / MWh	PLN 30.00 / MWh	PLN 253.50 / MWh
Total volume of electricity sold within the auction	824 629.000 MWh	416 553.540 MWh	1 567 288.818 MWh
Total value of electricity sold within the auction	PLN 415 358 262.21	PLN 155 049 022.96	PLN 554 474 643.01

RESULTS OF THE RES AUCTIONS COMPLETED IN 2017

AUCTION SESSION	RES installations commissioned after completion of the auction with installed capacity ≤1MW not qualified under the other technological baskets	Existing RES installations commissioned with installed capacity ≤1MW and load factor exceeding 3504 MWh/MW/a and CO2 emission not exceeding 100 kg/MWh
Date of auction session	29 June 2017	30 June 2017
Number of winning offers	352	44
Maximum price of the winning offer	PLN 398.00 / MWh	PLN 474.00 / MWh
Minimum price of the winning offer	PLN 195.00 / MWh	PLN 290.00 / MWh
Total volume of electricity sold within the auction	4 720 961.816 MWh	312 441.330 MWh
Total value of electricity sold within the auction	PLN 1 760 121 889.27	115 932 066.37



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