

Legal Alert

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Approval of the new terms and conditions of balancing for Polish market

Approval of the New TCB

On 27 September 2023 the President of the Energy Regulatory Office (“**President of the ERO**”) approved the new Terms and Conditions of Balancing (“**New TCB**”), as developed by the Polish transmission system operator PSE S.A. (“**TSO**”) to regulate operation of the balancing market, including execution of the power purchase agreements concluded by the market participant, planning of the system operation, settlements for imbalances as well as procurement of and settlement for ancillary services. The New TCB are envisaged to enter into force on 14 June 2024.

No approval of scarcity pricing

The President of ERO approved almost entire New WDB, save for paragraph 12 thereof which is to regulate the so-called “scarcity pricing” (payments for the so-called “operating reserve” to remunerate the reserves and increase balancing energy prices in periods where the reserve is limited). According to the information provided by the President of the ERO, the administrative proceedings in this respect shall be continued, given the implementation of the “scarcity pricing” in Poland is required under the EC decision No. SA.46100 (2017/N) on approval of the Polish capacity market state aid program).

The new TCB implements *i.a.* the following changes to the balancing market structure and operation:

I. New structure of objects used at the balancing market

Currently existing scheduling units shall be replaced with:

- a) “balancing units” (*pl. jednostki bilansowe*) held by the balancing responsible parties (*pl. podmioty odpowiedzialne za bilansowanie*) and used for *i.a.* commercial balancing, including notification of the power purchase agreements executed via the balancing market (“**ZUSE**”) as well as settlements for imbalances,

- b) “scheduling units” (*pl. jednostki grafikowe*) held by the balancing services providers (*pl. dostawcy usług bilansowania*) and used for procurement of and settlement for ancillary services, including submission of the integrated scheduling process bid and settlements for balancing energy, balancing capacity and operating reserve.

Each resource connected to the Polish National Power System shall be represented in the balancing unit. In case a resource is used for the purpose of provision of ancillary services (which is possible upon prior completion of the prequalification process proving the technical capabilities of the underlying resource to provide given type of reserve / ancillary service), it shall be also represented in a scheduling unit.

II. New structure of balancing market participants

The New TCB provides for clear separation of the roles of the balancing market participants, *i.e.*:

- a) the balance responsible parties (“**BRPs**” as defined in Article 2 point 7 of the Commission Regulation (EU) 2017/2195) shall be responsible for notification of the power purchase agreements and settlement for imbalances, while
- b) balancing service providers (“**BSP**” as defined in Article 2 point 6 of the Commission Regulation (EU) 2017/2195) shall be responsible for provision and settlement for the ancillary services.

Contrary to current regulatory framework, a balancing market participant shall be able to offer ancillary services as BSP without a need to be responsible for notification of power purchase agreements and imbalance settlements. In any case, every balancing market participant shall be party to the contract with the TSO which shall specify its role and allocate relevant units (balancing unit or scheduling unit(s), as the case may be).

III. New catalog of ancillary services

The New TCB introduce a new catalog of balancing services procured by the TSO, which includes:

- a) balancing energy and
- b) balancing capacity, including frequency containment reserve, frequency restoration reserve and replacement reserve.

According to the New TCB, the TSO shall purchase the upward balancing capacity and the downward balancing capacity separately. Scope of balancing capacities provided by given type of the scheduling unit shall depend on the outcome of the prequalification process. The New TCB defines also several types of scheduling units related to specific technologies, including scheduling units for wind, photovoltaics and storage.

IV. New imbalance settlement period

Under the New TCB, the imbalance settlement period shall be shortened to 15 minutes (slightly increased risk of imbalance).

V. Operation programs (*pl. programy pracy*)

For each scheduling unit and imbalance settlement period an operational program must be submitted to define (in addition to formal and technical data, such as code of the scheduling unit, its holder as well as the market operator) *i.a.* the following:

- a) level of load (with an accuracy up to 0.001 MW) at the end of each imbalance settlement period,
- b) status (such as operation, outage, ramp-up period from specific state),
- c) information on whether operation is forced (possible testing),
- d) information on availability of balancing capacities and schedule of balancing capacities,
- e) for storage facilities - also information on the mode of operation (generation/consumption of power) as well as (optionally) the level of charge and ability to generate/consume

VI. Balancing energy and imbalance energy

For the purpose of the settlements, the TSO shall determine and allocate the amount of balancing energy to each scheduling unit. The amount of balancing energy allocated to the scheduling unit shall consist of balancing energy activated on the replacement reserve platform, as defined in of Article 2 point 9 of the Commission Regulation (EU) 2017/2195 (“**RR platform**”), and the balancing energy activated outside the RR platform within the Polish balancing market.

For the purpose of the settlements, the TSO shall determine and allocate the amount of imbalance to each balancing unit. The amount of imbalance energy shall be determined based on ZUSE, metering data, taking also into account the imbalance correction resulting from the TSO’s instruction to provide balancing services with use of dispatchable resources covered by given balancing unit.



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