

Cleaning up the statute

Polish lawmakers are backing a buoyant PV market with a simpler solar permitting regime and plans to legislate the sharing of grid connections. At the same time regulators are easing the establishment of offgrid, direct-to-consumer power lines, according to Rödl and Partner's Piotr Mrowiec.

Polish PV project permitting, decided on the basis of conditions of development (decyzja o warunkach zabudowy), has long been relatively simple for developers to attain. However, a proposed new system would require developers to pass a local spatial development plan, which could be a considerably longer process.

According to the new law, change-of-land-use permission for solar plants can be offered only on the basis of local spatial development plans, for all arrays located on the most fertile, class I to class III agricultural land, or on forest land. It also applies to arrays larger than 150 kW on less fertile, class IV agricultural land, and for projects larger than 1 MW on any other type of land. The size stipulation can be flexible for sites intended for business power production.

The recent legislation offers developers the chance to secure permission before local plans are finalized before January 1, 2026. While previous planning decisions remain valid indefinitely, those issued after the new law came into force are only valid for five years.

Grid measures

On July 31, the lower house of the Polish parliament and the Senate prepared an amendment to the Energy Act which

would oblige large electricity retailers to offer dynamic pricing, in line with EU regulation. The statute is now awaiting presidential signoff.

With solar projects held up by grid capacity shortages, the legislation also relaxes the rules governing generators installing direct transmission to electricity consumers, without using the grid. The Energy Act already allows direct lines, the key proposed change is a waiving of the obligation to obtain a permit to build such a line, from the President of the Energy Regulatory Office. That permit requirement effectively blocks such projects because it may be issued only if the energy customer has no option of receiving electricity from the public grid.

The legislation liberalizes the construction of such direct lines and sets out specific requirements. First, electricity may be supplied only from a separate production unit, that is, from a unit that has a total output going to one consumer. It would therefore be impossible to connect 25% of a PV plant's nominal power output to the grid and supply the remaining power directly to a dedicated consumer. Secondly, all of the electricity supplied must be consumed by a dedicated consumer, that is, a user that is not connected to the power grid or is connected in a way that prevents the feeding of electricity produced at the third-party production site to the grid. The amended statute does, however, allow the feed of excess electricity not consumed by the dedicated consumer into the grid. Any such arrangement would have to be agreed with the grid operator.

The new law imposes charges on grid-connected energy consumers for using electricity supplied via a direct line from a generator, with the fee payable to the local grid operator. The fee will not apply to customers who are not connected to the public grid and create a type of "power island" together with the generator.

With such offgrid direct lines expected to be rare, it is anticipated most energy consumers that establish a line to a dedicated generator will have to pay the, so-called "solidarity fee," which the statute requires to be calculated on the basis of

Proposed legislation would add a longer permitting process to PV projects on Poland's most fertile land, while proposals to allow cable pooling could open up more grid capacity for solar.



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the quantity of power supplied via the direct line. The charge is meant to cover the maintenance costs of grid system-quality standards and ensuring the reliability of ongoing power supply. In other words, the consumer's share of the fixed costs of transmission and distribution of grid electricity. The solidarity fee will be calculated by local grid operators.

Cable pooling

Another approach to enable the connection of new clean energy plants to the grid without waiting for infrastructure upgrades is also worth mentioning. This is cable pooling, adding new renewables sites to the grid via existing connections.

The Senate has proposed such an option by adding a comprehensive legislative amendment to this effect, to the bill amending the Renewable Energy Sources Act and Certain Other Acts.

Cable pooling is about sharing a connection between more than one generation site. Such pooling makes sense for plants with different production profiles, especially PV projects sharing connections with wind farms, as they often produce electricity at different times of the day and neither uses their full connection capacity most of the time. Cable pooling will rely on physical security measures to prevent overuse of any connection capacity assigned. The cable pooling amendment put forward by the Senate is yet to be approved by parliament.

Last but not least, the trade in PV projects in Poland shows no sign of slowing down. The market is getting more and more professional. Buyers and project developers are increasingly seeking business partners on industry portals and classified advertisement websites. 

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About the author

Piotr Mrowiec is an associate partner at Rödl & Partner. He is the head of the office in Gdansk, Poland, and the leader of the renewables team. As a specialist in renewable energy sector regulations, he advises numerous clients and conducts legal due diligence for wind and PV projects. Mrowiec has also been involved in studies for dozens of wind and solar projects.

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