

Poland's policy overhaul

The first half of 2021 promises significant changes for the renewable energy industry in Poland. Lawmakers are working on a major overhaul of key legislation for the renewable energy sector – the Energy Act and the Renewable Energy Sources Act. These latest amendments make sense and, truth be told, some of them should have been made a long time ago, writes Piotr Mrowiec of law firm Rödl & Partner.

The renewables-friendly bill amending Poland's earlier RES Act was submitted to the lower chamber of the Polish parliament (Sejm) in April. Luckily, there is no major disagreement within the ruling coalition parties, or between the coalition and the opposition, as to the proposed changes.

Here we'll focus on four of the most significant changes. The first is the extension of the reasonably well-functioning RES support system. The proposal is to keep organizing the energy auctions in Poland until the end of 2027.

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The second is the long-awaited deregulation of business activity for plants of up to 1 MW. At present, plants with power of 500 kWp or more must go through a complicated procedure to obtain a license for electricity production, which is required to start selling electricity (leaving aside the sale during the commissioning) and for plants that have won an energy auction – a prerequisite to receive the auction support. According to the bill, PV plants up to 1 MW will be exempt from the licensing obligation and instead will be entered in the register of small plants (except micro-installations of up to 50 kWp), which is incomparably easier.

The third is about the obligation to refund a positive balance by the energy producer who wins an auction. Under the current legislation, if the market price of electricity is higher than the price offered by the producer in the auction-winning bid, the producer must refund the positive difference between the auction price and the average sales price of the electricity after the support period – that is, after 15 years. Following the legislative amendment, the positive difference will be refunded in three-year intervals. This is a far-reaching revision. On the one hand, producers may currently deal in the surplus until the end of the support period and lawmakers do not require any payment security. On the other, given that most RES plants are financed by banks – which require the difference between the auction price and the market price to be deposited to a special account – this change may be for the better. Producers will be able to write off the loss arising from the refund of the surplus after each three-year interval for tax purposes.

The fourth is the amendment of zoning regulations. The size of plants which need to be included in a local spatial development plan (location area and protection zone) will be increased from 100 kW to 500 kW. On low-class land (class V or higher), such areas will only have to be designated for plants of 1 MW or more. A crucial thing for rooftop photovoltaic installations is that no location area and protection zone will have to be designated for them, no matter the installation size.

Energy Act

The amendments to the Energy Act are even more far-reaching. The major amending act was passed without parliamentary quarrel in April and was at the legislative stage in the Polish senate at the time of writing. Since there is no dispute over the need for the overhaul, its signing into law by the Polish president seems to be only a matter of time.

The amended law is designed to embrace so-called smart grids, and more specifically – to oblige the power market players to implement smart metering technologies. According to the legislative

proposals, the distribution system operators (DSOs) will be obliged to replace traditional power meters with smart meters, which read the actual use or production of electricity from a single source with 15-minute accuracy. The new laws will bring a new body to the market; namely, an energy market information operator who will be responsible for the management and administration of the central energy market information system and for processing the data gathered in that system for the energy market processes. The DSOs will be obliged to replace 80% of conventional power meters with remote devices by the end of 2028. Smart metering aims to better manage the power grid and react faster to any overloads, which may improve the grid's "traffic capacity" and allow the connection of more RES plants.

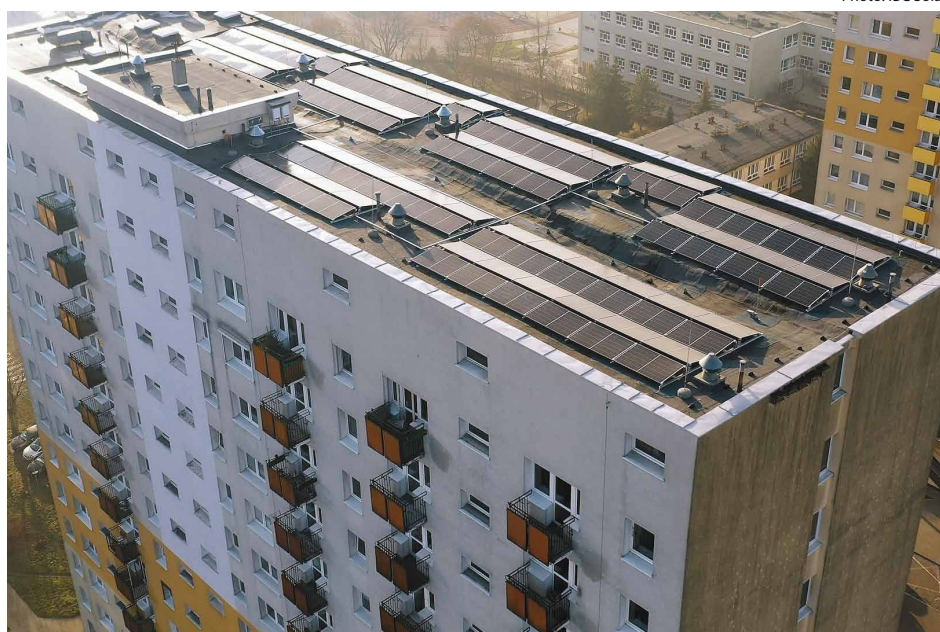
One of the most important updates deals with energy storage. The explanatory notes to the bill say that it introduces comprehensive solutions for the functioning and development of power storage systems. The lawmakers have clearly emphasized the need to develop storage technologies, saying that "the wide-scale power storage will be key to improve the power generation system, especially by allowing absorption of greater power output from renewable energy sources and improving security of electricity supply."

Above all, the distribution and transmission fees have been sorted out. At present, whenever a storage system takes electricity from the grid and later feeds it to the grid, the system owner pays the distribution fee twice. Following the amendments, the fee will be payable for the balance.

The licensing of the energy storage business activity will be regulated as follows:

1. Energy storage systems of up to 50 kW will not need to be registered at all;
2. Energy storage systems from 50 kW up to 10 MW will have to go through a relatively easy registration procedure with the power storage databank;
3. Energy storage systems of more than 10 MW will need a license for commercial operation.

Lawmakers have also proposed reducing the fee for connecting energy storage to the distribution/transmission system to half the actual costs of connection, as is the case with RES plants. The processing of the application for connection will, however, require an advance toward the



A solar installation on an apartment building in Poznan, Poland. The Polish authorities will likely introduce new regulations for renewable energy in the coming months. The new rules will simplify the process of commissioning solar PV plants smaller than 1 MW.

connection fee, which will amount to PLN 30 (\$8) for every kilowatt of connection power. This system has been used for the connection of RES plants for years. Furthermore, the amending bill introduces a definition of energy storage as a system that allows storing and feeding electricity to the grid.

It is also noteworthy that the bill is supposed to regulate the power recovery and reuse area by introducing a simple and effective system of accounting for electricity based on the difference between the amount of electricity taken from and returned to the grid. The bill also regulates the legal aspects of the so-called "closed distribution systems" – that is, electricity distribution within certain areas such as large manufacturing plants, special economic zones, shopping and office centers, by waiving some of the obligations which would otherwise apply as if they were standard DSOs.

PV auctions

Last but not least, I would like to mention that two auction rounds dedicated to electricity from photovoltaic plants will be held as soon as this June. Photovoltaic projects larger than 1 MW will compete with wind farms for auction support on 8 June. PV plants of up to 1 MWp will bid, mainly against each other, for support three days later. Hints from government circles suggest that some additional auction rounds for photovoltaic and wind projects may be held at the end of the year. **PV**

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About the author

Piotr Mrowiec is an associate partner at Rödl & Partner and the head of the Gdansk office and its renewable energy 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 been involved in studies for dozens of wind and solar projects, with a total capacity of several hundred megawatts.