

# Caps off to Polish PV

The new year has brought major change for clean power generators in Poland. Piotr Mrowiec, of Rödl and Partner, considers two developments which, along with direct-line and cable-pooling legislation, could affect Polish PV as auction prices rise and a clean energy price cap has been removed.

Poland's Energy Regulatory Office typically holds renewables generation capacity auctions at the end of the year. Procurement was staged for projects up to and above 1 MW in generation capacity, with solar competing with wind in

each. Auction AZ/6/2023, for the smaller systems, attracted 163 bids from 80 solar developers but only 11% of the energy on offer – just above 1.2 TWh – was subscribed, via 133 successful bids from 56 generators, for a total PLN413 million



Photo: Mirko Electric

*Though the country is coming up against constraints in grid access, solar is expected to continue growing rapidly in Poland in 2024.*

(\$103 million). That procurement exercise could drive around 123 MW of new solar capacity, to sell electricity at prices ranging from PLN 284.95/MWh to PLN 355/MWh.

In the final auction for 2023, for wind and PV systems with a generation capacity of more than 1 MW, the winning bids came from plants with a total installed generation capacity of 495.5 MW. That auction attracted 63 generators who placed 85 bids and was also dominated by solar. With 21.75 TWh of energy available, and a budget of PLN 6.23 billion, just over 4.7 TWh of electricity was sold at auction – around 22% of the energy earmarked for sale – in 67 bids from 52 generators for a total amount of more than PLN 1.5 billion. The minimum sales price of electricity from the larger PV farms was PLN 272.91/MWh with the maximum PLN 349.69/MWh.

The auction prices were significantly higher than in the past and the procurement exercises are getting less attractive for most investors every year. Growing competition among PV farms in Poland has driven the sort of price “cannibalization” witnessed in Germany and elsewhere, where solar sites are so successful at driving down electricity prices they begin to struggle to attract sufficient returns for investors. As a result, Polish solar investors are increasingly opting to sell their electricity on the open market or via corporate power purchase agreements.

### The price cap

The greatest news for owners of large renewable energy systems in Poland is that the lower chamber of the Polish parliament, the Sejm, has decided not to extend tight caps on energy prices for clean energy producers which were in force from Dec. 1, 2022 to Dec. 31, 2023. Those electricity price ceilings were introduced in an act of Oct. 27, 2022, as an emergency measure to cap electricity prices and support certain consumers in 2023 and 2024. That measure has been amended by the Sejm.

Poland was allowed to put the caps in place thanks to the 2022/1854 piece of European Union legislation, on Oct. 6, 2022, which was an emergency intervention to address high energy prices. The caps were implemented by means of an obligation imposed on selected types of generation technology, including photovoltaics, to remit surplus revenue from

the sale of green electricity above the statutory cap, to a special fund. The cap value has been changed more than once. In response to critical voices from the industry, the maximum price for some producers was at one point increased by an “investment surplus,” and then applied also to revenues secured from guarantees of origin for clean power – the carbon credits issued to generators for each kilowatt-hour of clean power they generate and which can be traded between companies to offset carbon emissions. The clean energy price cap generally did not apply to producers of electricity at plants with a generation capacity of up to 1 MW – or a total installed capacity of up to 3 MW if an electricity producer had multiple production units, each with a capacity of no more than 1 MW. The price cap, however, was set way below the €180 (\$196)/MWh included in the above-mentioned European regulation and ranged between €50/MWh and €90/MWh.

The threat of extension of the cap on market revenues was real but as European electricity prices steadily dropped, Council Regulation 2022/1854 was not extended and the Polish parliament’s decision to the contrary could be in breach of European community law. The return to standard market rules has brought optimism back to the market and translated into increased interest in Polish commercial photovoltaic systems, among domestic and foreign equity investors.

### Market In 2024

It looks like PV projects in Poland will continue to grow rapidly in 2024, despite the frequently mentioned ailments of the Polish power system, which has less and less available connection capacity.

Last year’s amendments to the Polish Energy Act, that allowed cable pooling – combined with unlocked European Union funds earmarked for the Polish power industry – should help increase the opportunities for connecting new PV. Importantly, Poland’s electricity transmission system operator, PSE, and local distribution system operators tend to shift the costs of upgrading the grid sections required for connections to those who want to connect their energy production units. On the one hand, that increases capital expenditure for new renewables projects. On the other hand, it allows development of new projects, especially solar-powered ones.  *Piotr Mrowiec*



### About the author

*Piotr Mrowiec is leader of Rödl & Partner’s renewable energy team in Poland and head of the Gdansk office. Renewable energy is both his professional specialization and passion. He has worked in this field for more than 15 years and advises numerous clients from the solar and wind energy industry. Mrowiec has authored numerous studies and articles on legal aspects of renewable energy, and is ranked in Legal500, Energy And Natural Resources.*