PWEA's position on the draft regulation of the Council of Ministers of 14 November 2016 on the maximum volume and value of electricity from renewable energy sources which may be sold at auctions in 2017

According to the recently published draft regulation on the volume and value of RES auctions for 2017, the Polish government is promoting the most expensive RES technologies and trying to put the RES sector's development to a halt. If the regulation on next year's RES auction is published in its currently drafted form, the green energy production costs in Poland will increase significantly, and the development of the sector will slow down.

Cost of energy production from RES in Poland will increase significantly

The Ministry of Energy intends to primarily support technologies using biogas and biomass to produce electricity. These green energy technologies are very expensive. According to the government's assumptions, the average cost of generating 1 MWh from these technologies ranges from 415 PLN/MWh (for biomass) to 550 PLN/MWh (for agricultural biogas). The total value of auctions for these technologies is as much as PLN 17.6 billion. According to the aforementioned draft, as a result of next year's auctions, 300 MW are to be built in small PV farms and only approx. 150 MW in new wind farms, for whom the energy production costs are estimated at 400 PLN/MWh and 330 PLN/MWh respectively. However, the planned value of auctions for those cheaper technologies is four times lower at PLN 4.2 billion.

The announced volumes bring a serious risk of failing to meet the target for RES share in gross national energy consumption in 2020 for the electricity sector

According to Article 4 of Directive 2009/28/EC of the European Parliament and of the Council on 23 April 2009 on the promotion of the use of energy from renewable sources (Official Journal of the EU, 5 June 2009 – the "Directive") "*Each Member State shall adopt a national renewable energy action plan. The national renewable energy action plans shall set out Member States' national targets for the share of energy from renewable sources consumed in transport, electricity and heating and cooling in 2020*".

As mentioned in the explanatory notes to the draft Regulation on maximum volume and value of electricity from renewable energy sources which may be sold at auctions in 2017, the values indicated are an attempt to comply with the National Renewable Energy Action Plan and are sufficient to meet the obligations under the Directive 2009/28/EC of the European Parliament and the Council of 23 April 2009.

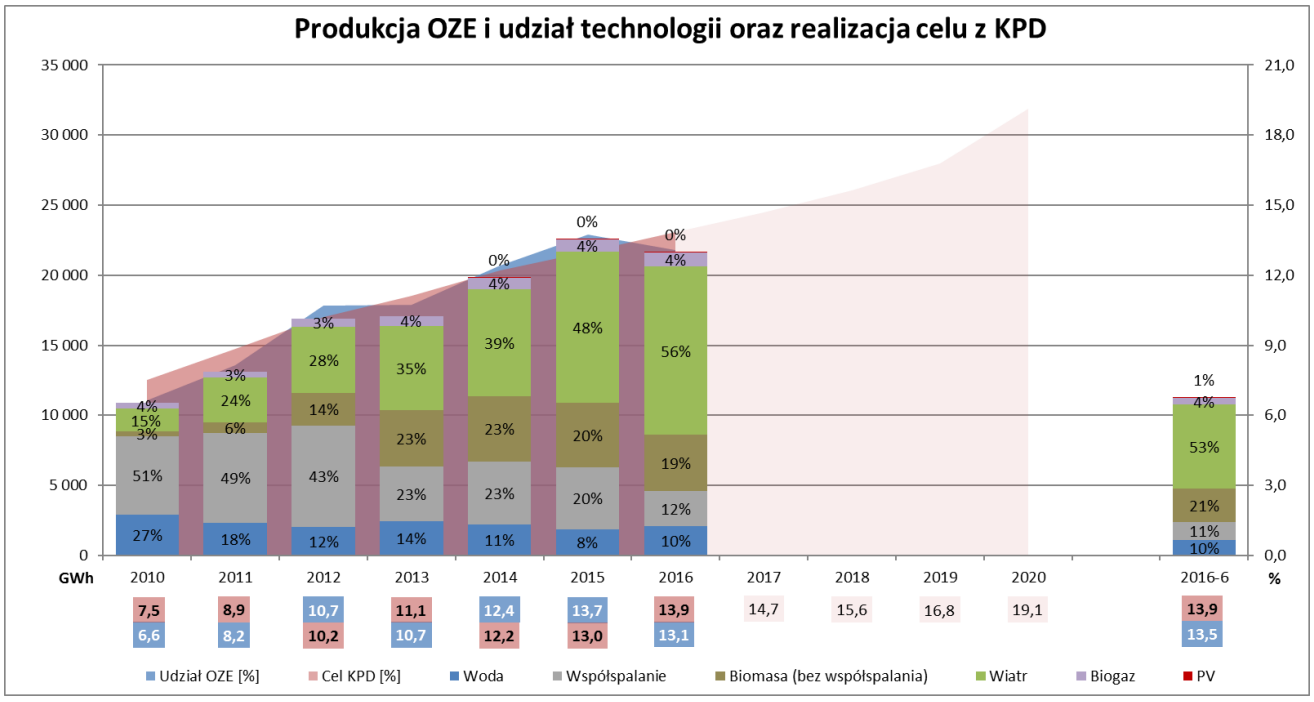
In PWEA's opinion, the situation is completely different and the maximum volumes of electricity that may be sold at auctions in 2017 **will put Poland further away from meeting the 2020 target** for the share of RES in gross national consumption for the electricity sector.

Therefore the volume of proposed auctions, currently planned at approx. 680 MW for all new installations, should be increased. So far the average yearly new installed capacity for RES between 2010 and 2015 was approx. 883 MW per year.

According to the data from the Energy Market Agency (ARE), 22.5 TWh of energy was generated from RES in 2015. The 2016 production (January-September) was 15.6 TWh, so the entire 2016 will have a lower production from renewables than 2015 (production from co-firing and biomass has decreased).

Since the government has proposed an auction providing only 2.2 TWh per year, even assuming it is repeated in 2018, it will not ensure adequate development of production from RES or meeting the target specified in the NREAP or implied by the Regulation. Meanwhile, in order to meet the 2020 target in the electricity sector, over 30 TWh of electricity has to be generated. Therefore we are still far from reaching that level, and the introduction of the auction system has halted investment in RES for at least a year and a half.

The existence of the investment gap was repeatedly questioned by the government. According to the regulatory impact assessment for the draft, the RES sector had been developing faster than intended, especially the onshore wind sector.



Source: PWEA based on ARE data

However, the analysis carried by PWEA shows that over the last 6 years the annual target for the share of green electricity in the gross domestic energy consumption was exceeded in 2012, 2014 and 2015, whereas the production of green energy was lower than the target in 2010, 2011 and 2013. The forecast also shows that the level required for 2016 will not be achieved (as illustrated by the graph above). Therefore there is actually no excessive development of the RES sector, as mentioned in the explanatory notes to the draft regulation in question.

The data on installed capacity in the RES sector, quoted in governmental analyses, does not fully demonstrate the scale of the problem. First, because annual targets are measured by production, not by installed capacity. Second, the support for the RES sector in the form of green certificates is also calculated based on production in MWh, not on installed capacity in MW.

The forecast for the fulfilment of the target for RES share in gross national energy consumption in 2016, based on actual data for the first 6 months, shows that there might be a 1 TWh shortage of green energy, and the share of renewable will be slightly above 13%, whereas the target for this year is 13.85%.

Despite this, the oversupply of green certificates is still on the rise, which shows how dysfunctional the green certificate system currently is.

The forecasted shortage of RES production compared to the target is mostly related to low production of energy from biomass, which is no surprise when green certificate prices have dropped below 40 PLN/MWh. Production of energy from wind should reach the forecasted level, but it depends on wind conditions in the 4th quarter. PV is certainly developing much faster and it is highly likely that its production will exceed the planned level. It is also unknown whether production from biogas will develop faster after covering agricultural biogas plants with the new "blue" certificate, and whether the forecasted production from co-firing will be achieved, as with the current low green certificate prices its continuation is economically unjustified.

Lack of auction volume for existing wind installations

The lack of budget (and the corresponding volume of energy in MWh) for existing wind farms above 1 MW installed capacity is yet another blow to this technology (with falling prices of green certificates and the risk of additional property tax burden). This statement is based on the fact that the capacity factor at the level of 3504 MWh/MW/year is not achievable for existing wind farms, therefore both available "auction baskets" exclude currently operating wind installations from participating in auctions in 2017.

Contrary to previous announcements from the government, the possibility to switch from the green certificate system to the auction scheme is limited to selected stakeholders on the renewables market, excluding other participants, mainly wind farms.

This leads to justified concerns about the financial standing of the producers operating under the system of certificates of origin, the more so that the Ministry of Energy is still not taking any steps to stabilize the oversupply of green certificates.

A real threat of additional increase of the costs of support scheme in 2020

In PWEA's opinion, the currently proposes auction volumes will not allow for the 2020 target to be met, which will result in the need to cover the deficit of energy from RES by purchasing statistical transfers from those Member States who have a surplus of renewable energy produced.

According to Article 6 of the Directive, "*Member States may agree on and may make arrangements for the statistical transfer of a specified amount of energy from renewable sources from one Member State to another Member State. The transferred quantity shall be: deducted from the amount of energy from renewable sources that is taken into account in measuring compliance by the Member State making the transfer with the requirements of Article 3(1) and (2); and added to the amount of energy from renewable sources that is taken into account in measuring compliance by another Member State accepting the transfer with the requirements of Article 3(1) and (2)*".

Statistical transfers included in the costs in 2020 mean that in order to meet the national targets for RES share in the total energy produced, Poland will have to cover the difference between RES production and the national target with certificates of origin from other member states.

A small auction basket for wind energy

The explanatory notes to the draft regulation on next year's auctions are completely inconsistent. The Ministry of Energy suggests that among various renewables only wind energy is unstable. It is only partially true, as wind power is in fact unstable, but it is predictable at the same time. All types of renewable sources, including biomass and biogas plants, are equally uncontrollable from the point of view of the national grid. It is also true that some of these sources are less predictable than wind turbines, and thus they are potentially unstable, similarly to wind power. With such false assumptions there is preference for some technology baskets which ensure only apparent stability, at the same time being much more expensive technologies than wind power.
The volume for wind power (and PV) is therefore almost four times smaller than for other, more expensive RES technologies.
Meanwhile, according to PWEA's estimates, there is over 2,000 MW in wind projects ready to build, and their completion would ensure that the 2020 targets are met.

The issue of low completion ratio of RES projects under the auction scheme

It may be expected that not all auction-winning projects will be built – for various reasons, such as lack of funding, reference price too low, problems with permits and contracts, etc. Despite the fact that the RES Act includes deposits necessary to take part in auctions and a 3-year ban on auction participation for project operators who failed to meet the obligation to build, these sanctions are not very painful. Therefore the effectiveness of this tool is expected to be rather low. This means that yearly auction volumes should be at least 20% higher that the intended volume of green energy production.

An example reflecting the issue of low ratio of completed wind projects is the case of the Netherlands. In 2008-2013, after the introduction of the auction scheme, out of 1816 MW of capacity contracted in tenders, only 291 MW were built. Another example is the UK, where under the auction scheme the average RES auction efficiency (the ratio of installed/contracted capacity) was 27%, and only 18% for wind power.

Summary

Adoption of the regulation in its proposed form will be another step to discriminate wind power in Poland. Even if – hypothetically – wind power is allowed to participate in RES auctions in 2018, winning projects may actually be only partially completed (depending on when the 2018 auction is announced; the later, the less projects will be completed), as due to the "anti-wind turbine" act the investors will be unable to obtain the required operating permits by July 2019. As a result of this negative policy towards the RES sector (and wind power in particular), the Polish society, despite bearing the costs of the support scheme, will not be able to achieve the benefits that could be possible in case of properly designed mix of renewable technologies. The draft widely reopens the support scheme for subsidization of co-firing – a technology that does not bring any long-lasting, system-wide benefits, and increases the cost of energy from RES. The risk of multi-billion statistical transfers will also increase significantly, as with the current configuration of auctions it will be practically impossible to meet Poland's RES electricity production targets for 2020.

We hope that during public consultation the government will revise its approach to creating a balanced energy mix in the RES sector and will take into account all the arguments mentioned above. In PWEA's opinion it is necessary to increase the auction volume in the basket available to new wind installations at least to the average level of yearly capacity additions in wind power, that is approx. 680 MW/year. The

RES sector should be developed in a balanced manner, taking into account the cheapest and most mature technology – onshore wind. It also the only technology with a potential to ensure that Poland meets its RES targets for 2020.

We would also like to stress that a short, 5-day notice for submitting remarks to the regulation being one of the most important delegations to the RES Act, determining the RES policy of the state for the coming 15 years, is in direct breach of par. 133 of the Working Regulations of the Council of Ministers, stipulating that draft regulations of the Council of Ministers or of the Prime Minister should be submitted to public consultation for at least 10 days. Setting the notice period of less than 10 days requires a detailed explanation, which is not included in the letter of the Ministry of Energy of 21 November 2016 with information about sending draft regulations on the sequence and volume of auctions; moreover, that letter was published on the Governmental Legislation Centre's website as late as 23 November, and the bodies invited to consultation (listed in that letter) received the relevant notifications even later than that. Such a mode of operation breaches the principle of correct legislation and undermines public trust in administrative bodies.