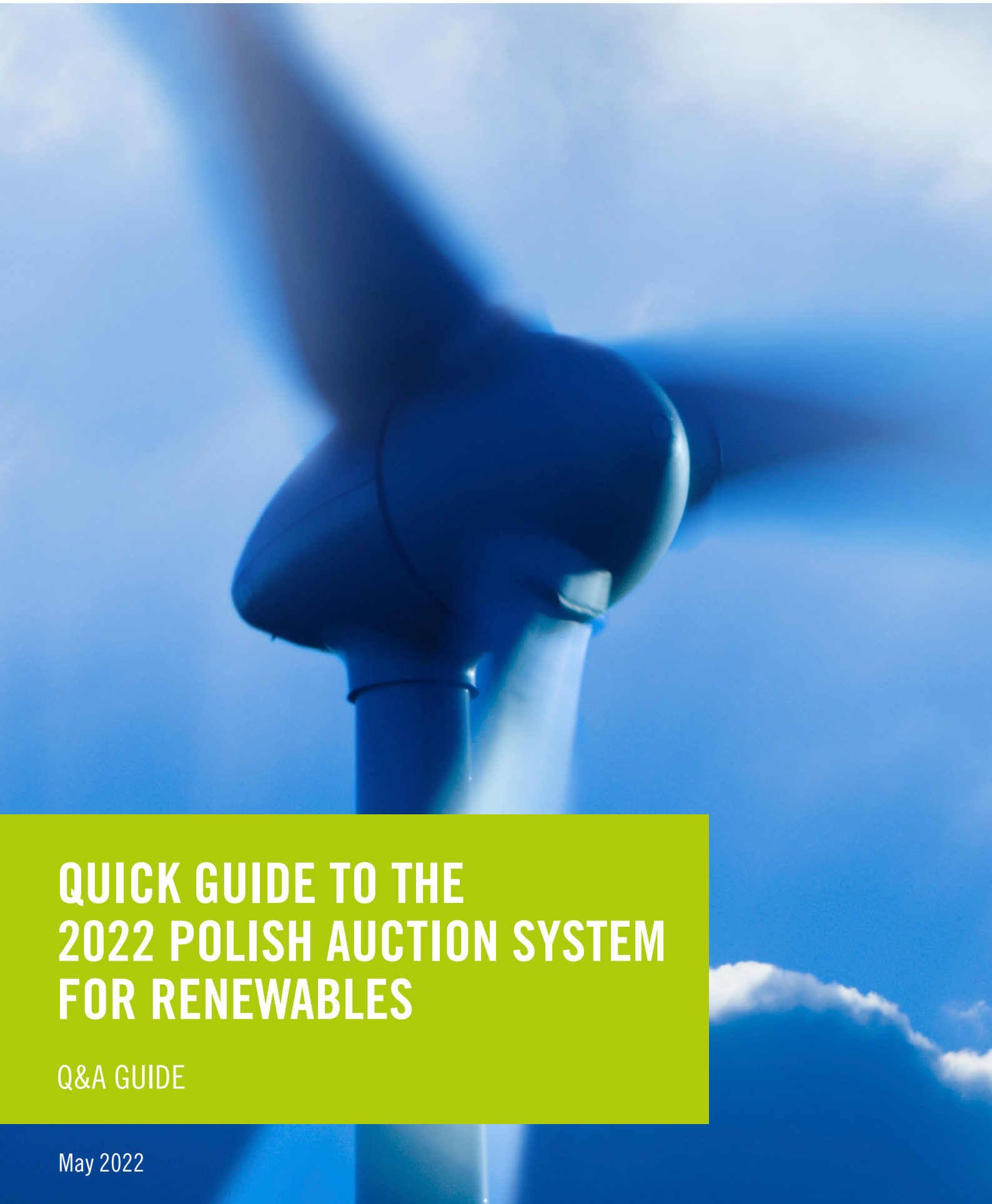


QUICK GUIDE TO THE 2022 POLISH AUCTION SYSTEM FOR RENEWABLES

Q&A GUIDE

May 2022

CONTENTS

INTRODUCTION

Dear Readers,

More auctions were held at the end of 2021 to sell energy from new onshore wind installations. PLN 2.5 billion was contracted in the second round of the 2021 auctions for new large wind and PV. According to PSE's data as of January 1, 2022, the installed capacity of wind farms already amounts to 7306 MW.

Poland has thus become one of the key onshore wind farm construction sites in this part of Europe. The total installed capacity from renewables currently amounts to 15.7 GW, out of which 44% are wind farms. The future is also bright for new wind projects. The government is accelerating the amendment of the Act on Investments in Wind Power Plants, by liberalizing the so-called 10H distance rule. A draft of the relevant amendment has already been proposed. What is more, the Act on promoting electricity generation in offshore wind farms, adopted at the beginning of 2021, shall enable the development of 10 GW capacity from offshore wind energy. The National Energy and Climate Plan 2021–2030 expects the offshore wind technology to be of key importance in bringing the country closer to meeting the renewables' 21–23% share in electricity generation.

Nowadays wind is the most cost-effective energy production technology – which fact is reflected by the ever dropping reference prices for wind technology in RES auctions, which since 2017 decreased by almost 25%, up to 250 PLN/MWh in 2021. The spectacular drop in costs is a competitive advantage of wind energy, but at the same time it necessitates a constant urge to optimize projects – hence the need for innovative solutions.

We have a pleasure to present this guide on the auction system for renewables as a compendium of knowledge prepared by the Polish Wind Energy Association and DWF.

We hope that you will find the guide useful.

Janusz Gajowiecki
President of the Board
Polish Wind Energy Association

Karol Lasocki
Partner
DWF

1. THE CONDITION OF WIND ENERGY IN POLAND

Wind energy constitutes an increasingly vital element of the Polish energy mix. Many indicate that its role in the coming decades will increase further. Full exploitation of the onshore and offshore wind potential will enable transformation of the energy system towards a low-emission economy.

The National Power System in Poland, with total installed capacity exceeding 53 GW, is based primarily on coal-fired sources. The electricity sector is dominated by large baseload power plants and CHPs that use fossil fuels. In 2016 their total share in the NPS installed capacity reached 70.3%. However, the oldest power units will be decommissioned soon. In accordance with the cumulated decommissioning scenario presented by the transmission system operator, it will be necessary to shut down more than 20 GW of generation sources by 2035. This is caused by their age and wear as well as the planned implementation of conclusions introducing the new BAT emissions standards.

The gaps in the system may be filled by renewable energy sources, whose dynamic growth started in 2005 with the introduction of a RES support scheme – the so-called green certificates scheme. Within the last 10+ years the renewable sector noted the highest installed capacity growth rates. RES installed capacity currently amounts to 15.7 GW, of which 44% in wind.

In November 2021 we experienced a record of electricity production from wind. The share of RES in November 2021 was 16.7 %, out of which the biggest share was generation from onshore wind – 1752.8 GWh.

Wind energy development in Poland
since the introduction of the support scheme

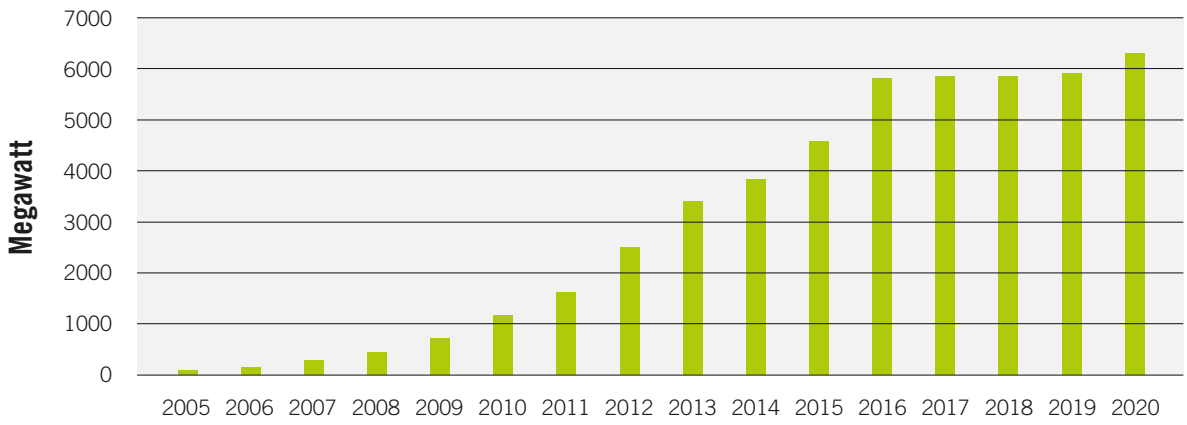


Diagram No. 1
Source: The Energy Regulatory Office
https://www.ure.gov.pl/pl/oze/potencjal-krajowy-oze/5753,Moc-zainstalowana-MW.html

2016 was the last year when installations built under the green certificates scheme were commissioned. The introduction of the new, auction-based support scheme coincided with adverse changes to the regulatory environment of wind energy, which brought its dynamic growth to a halt. The introduced changes – the so-called 10 h principle and the increased tax base for wind turbines – actually precluded the construction of new projects. The situation of existing installations was additionally hindered by the oversupply of green certificates, which resulted in a radical decrease in their market prices, substantially hampering the investments' profitability.

In mid-2018, the industry partially succeeded in breaking the stalemate. The amendment to the RES Act restored the previous taxation rules and paved the way for holding substantial RES auctions for new installations. In the meantime, green certificate prices also increased, improving the financial standing of wind energy investments.

In accordance with the data published by the Energy Regulatory Office, at the end of 2020 wind farm installed capacity in Poland amounted to almost 6.3 GW. Electricity produced by the onshore wind power plants and other green sources accounted for over 10% of domestic electricity production share in 2020, according to data provided by PSE-Operator.

During the auctions held at the end of 2020 and in June 2021 investors obtained aid for the construction of a further 1.2 GW of wind capacity. The auctionsreflected a global trend, according to which onshore wind energy is currently the least expensive source of electricity – the average energy sale price at the 2020 auction amounted to 224.24 PLN/MWh. The minimum price at which energy was sold for onshore wind farms during the first 2021 auction amounted to 179 PLN/MWh, whereas in the second round – 139.64 PLN/MWh.

By decision of the European Commission of 17 December 2020, the functioning of the auction support system for producers of energy from renewable sources was extended until 31 December 2027. In the face of increasing prices of electricity from conventional sources, whose production is subject to high CO2 emission allowance costs, as well as the threat of a failure in the achievement of the EU RES target, further auctions for the sale of energy from RES were held in the first half and at the end of 2021 (for installations above 1 MW on June 8, 2021, and December 9, 2021 and – for up to 1 MW on June 11, 2021 and December 7, 2021).

Moreover, the Polish government has declared to soon liberalize the 10H principle which would unblock investment in onshore wind power. This should pave the way for the development of new wind projects. The draft assumes, among others, resignation from the so-called distance principle, which assumes that the minimum distance between a power plant and, among others, a residential building is equal to 10 times the height of the wind power plant (10H) and introduces an absolute minimum distance (500 meters). According to the draft's justification, introduction of more flexibility of the rules for locating wind power plants will make it possible to build between 6 GW and 10 GW of new installed capacity by 2032 (depending on the wind energy development scenario). Currently, the installed wind capacity is over 7.3 GW.

This is also crucial in the context of growing interest in the long-term corporate power purchase agreements among industrial customers. The first of such agreements were concluded in Poland at the end of 2018. Representatives of the industry, looking for

inexpensive, clean electricity sources and electricity producers seeking investment financing outside the support scheme alike are increasingly willing to use this formula.

Wind farms in operation in Poland are only onshore installations. However, assumptions of the National Energy and Climate Plan (NECP) filed by the Polish government with the European Commission demonstrate that up to 3.8 GW of offshore wind farms will be commissioned in the Polish part of the Baltic Sea by 2030, with offshore wind development gradually increasing to 8 GW by 2040. In the first half of 2021, the Council of Ministers adopted one of the key legal acts for the development of offshore wind energy, i.e. the Regulation of 14 April 2021 on the adoption of a spatial development plan for internal sea waters, territorial sea and exclusive economic zone at a scale of 1:200 000. The plan determines the extent to which the Baltic Sea offshore wind potential will be exploited. The plan covers about 97% of the Polish maritime areas and constitutes a comprehensive regulation of maritime spatial planning. Experts estimate that the actual offshore potential in the Polish Exclusive Economic Zone substantially exceeds the governmental ambitions in that respect – it is estimated at 12–14 GW.

In February 2021 the act on promoting electricity production from offshore wind farms was published and came into force, which is a very positive signal for the development of the offshore sector in Poland. The act creates the legal framework for offshore investment implementation, defining the investment

NECP scenario: installed capacity by source*

Elextricity mix – installed capacity

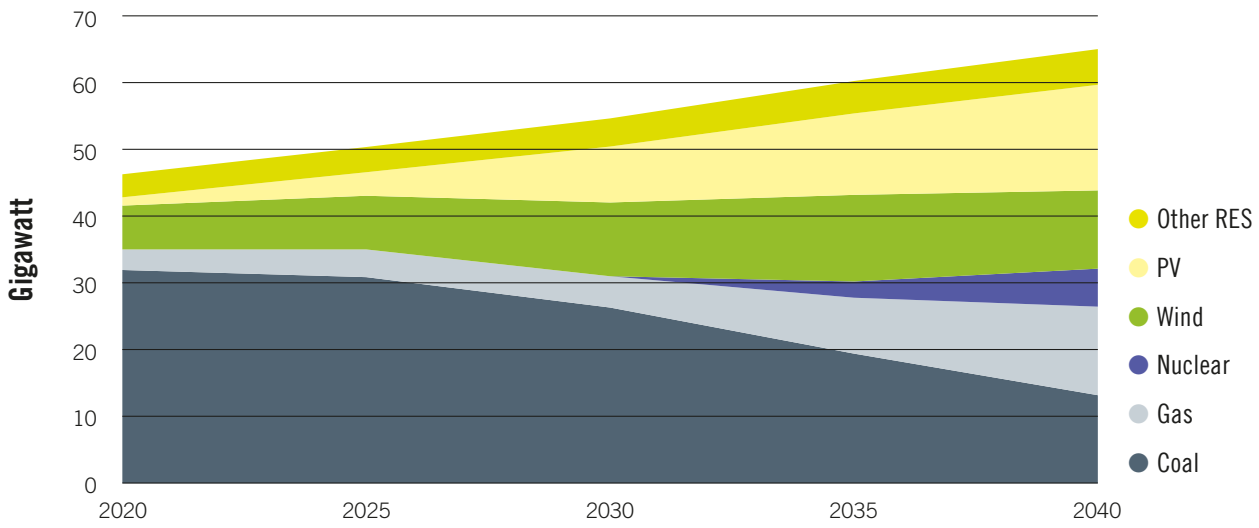


Diagram No. 2

* Onshore and offshore wind are not shown separately in the draft NECP.

support scheme in the form of contract for difference. Thus, the bill offers long-term stability for investors while ensuring competition between companies. Adoption of the bill is the first step to unlock investments in the Polish offshore sector, which will enable the country to become an important European market for offshore on very short notice. Between April and June 2021, the President of Energy Regulatory Office considered all applications and issued a total of seven decisions on granting the right to cover the negative balance for seven wind farm projects in the Baltic Sea (support granted under the so-called phase I in a way of administrative decision).

Both the NECP and the energy policy to 2040 (PEP2040) provide for ambitious decarbonisation measures after 2030, with less substantial reductions before 2030. Both rely on renewable energy and gas-fired capacity to close gaps left by the phasing-out of coal, but do not fully utilize the potential of wind (particularly onshore) while proposing a nuclear project to be commissioned in 2033 (which seems doubtful to many).

We believe the potential of wind – onshore & offshore – supported by gas-fired capacity is enough to meet more ambitious targets without the need to develop a (highly uncertain) nuclear project. The approach proposed by PWEA would allow the country to: meet the demand for electricity, which is underestimated in the NECP; fulfil RES-related targets; reduce CO_2 emissions at a faster pace than it is planned by the Polish government and contain the escalation of electricity costs.

PWEA scenario: installed capacity by source**

Elextricity mix – installed capacity

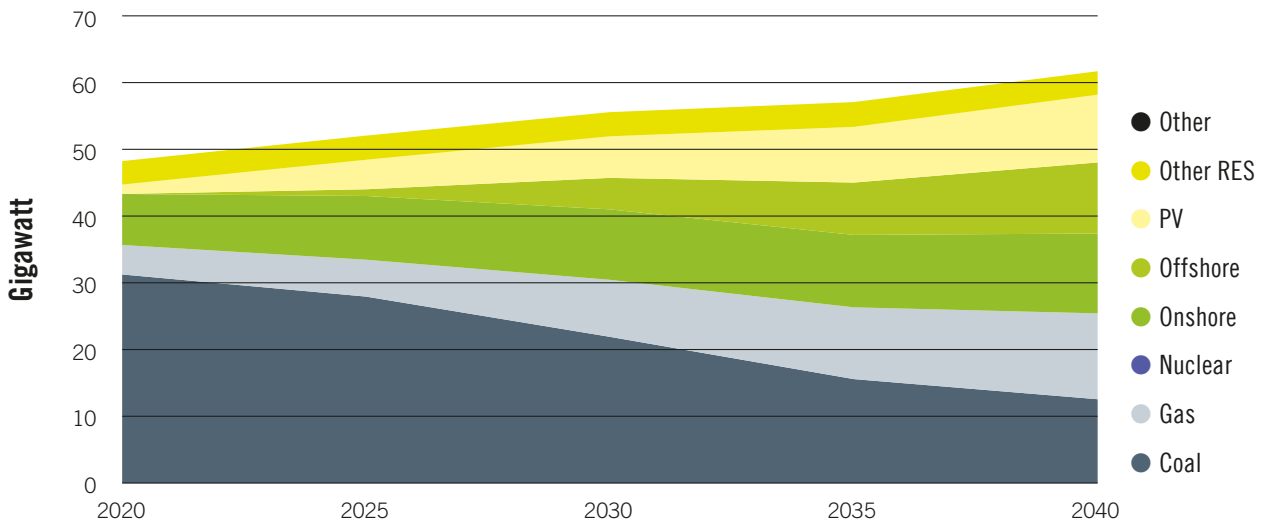


Diagram No. 3

** Onshore and offshore wind is not included separately in the draft NECP. The division has been estimated by PWEA based on the draft energy policy published a month before the NECP.

2. AUCTIONS IN 2021

On June 8, 2021, and December 9, 2021, auctions were held for installations above 1 MW, and on June 11, 2021 and December 7, 2021– for installations up to 1 MW. On December 28, 2020 the new regulation dated December 16, 2020 on the maximum volumes and values of electricity from renewable energy sources that might be auctioned in 2021 was officially announced (Journal of Laws 2020, item.236). The maximum volume of electricity to be contracted from small PV and wind installations was set at 14,700,000.00 MWh MWh of the value of PLN 5,292,000,000.00 (over 1 billion EUR). In the corresponding regulation issued for the 2020 auction, 11,760,000.00 MWh of energy of the value of PLN 4,527,600,000.00 was allocated for this basket.

Regarding industrial-size PV and wind installations above 1MW, the maximum volume was set at 38,760,000.00 MWh of the value of PLN 10,748,400,000.00 (over 2 billion EUR). Similarly, for the 2020 auction for this basket the volume of energy amounted to 46,290,000.00 MWh.

According to a summary of the auctions held in June 2021, the President of the ERO estimates that the auctions will contribute to nearly 2,500 MW of new generation capacity, including:

- 2,200 MW in photovoltaic installations (1,000 MW in installations with an installed capacity up to 1 MW and 1,200 MW in installations with an installed capacity of more than 1 MW),
- 300 MW in wind installations above 1 MW.

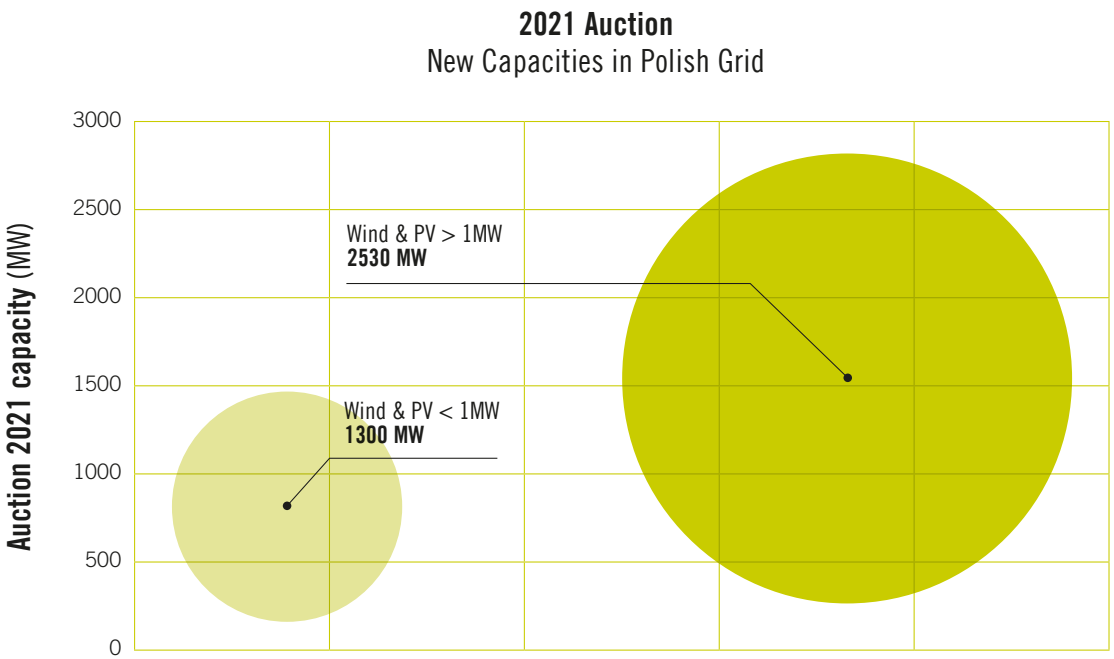


Diagram No. 4

Auction budgets 2021 description for each RES technology and comparison to year 2020

Technology	Cap.	2021 budget		2020 budget		Change	
		(GWh)	(PLN)	(GWh)	(PLN)	(%vol.)	(%val.)
Wind & PV	< 1MW	14,700.00	5,292,000,000.00	11,760.00	4,527,600,000.00	+25%	+17%
Biomass	> 1MW	10,680.00	5,249,400,000.00	10,950.00	5,182,500,000.00	–2%	+1%
Wind & PV	> 1 MW	38,760.00	10,748,400,000.00	46,290.00	14,015,850,000.00	–16%	–23%
Agri biogas		1,800.00	1,206,000,000.00	1,800.00	1,152,000,000.00	-	+5%
Other		1,350.00	729,000,000.00	1,620.00	788,400,000.00	–17%	–7%
Hybrid installations		1,576.80	946,080,000.00	-	-	-	-
Existing installations		500.00	335,000,000.00	2,500.00	1,600,000,000.00	–80%	–79%
Total		**69,366.80**	**24,505,880,000.00**	**74,920.00**	**27,266,350,000.00**	**–7%**	**–10%**

Table No. 1

Source: own study.

The total estimated volume of energy to be sold during the auction in 2021 amounts to 69,591,800.00 MWh in the 15-year support period, and the total maximum value of this energy will be over 24.6 billion PLN.

3. WHEN DID THE LAST AUCTIONS TAKE PLACE?

The most recent auctions for onshore wind and PV took place on 7th and 9th December 2021, respectively for installations up to and above 1 MW capacity.

The European Commission on 17 December 2021 issued its decision number SA.64713, which is the basis for extending the auction system until 31 December 2027. This is excellent information for all RES generators. As the Deputy Minister for Climate and Environment emphasised, the European Commission's decision makes it possible to maintain continuity of the main Polish support system for RES generators in compliance with the principles of the internal market of the European Union, which is crucial for ensuring conditions for safe and predictable development of renewable energy sources in Poland. According to preliminary estimates, the extension of the auction system will enable the creation of approximately 9 GW of new capacity in renewable energy technologies. The maximum value of state support during the entire programme period may amount up to PLN 43.85 billion

4. HOW DOES A PROJECT QUALIFY FOR PARTICIPATION IN AN AUCTION?

Ready-to-build onshore wind, solar as well as biogas, biomass and waste thermal treatment (including CHP) projects can participate in an auction if they:

1. hold a certificate of admission to an auction, and
2. pay a deposit of PLN 60 (ca. EUR 14) per 1 kW, or provide an equivalent bank guarantee.

Obtaining a certificate of admission to an auction is preceded by a pre-qualification procedure carried out by the President of the Energy Regulatory Office. Investors need to evidence that they possess ready-to-build installations, i.e. that the following criteria are met:

1. grid connection conditions or an agreement is in place,
2. the project has a final and non-appealable building permit (valid for at least 6 months),
3. an installation scheme is provided,
4. a schedule of works and expenditures for the completion of construction is presented.

Once the prequalification criteria are fulfilled, a certificate of admission to an auction is issued within 30 days by the President of the Energy Regulatory Office. The certificate remains valid for 12 months from the date of issue.

5. HOW DOES WINNING AN AUCTION IMPACT GRID CONNECTION?

Grid connection conditions or a concluded grid connection agreement is required for participation in an auction. Grid connection conditions are valid for 2 years from the day of their service upon an applicant. In this period they constitute a binding obligation on the part of a grid operator to conclude a grid connection agreement.

A grid connection agreement specifies a period for implementation of a grid connection and contains a deadline for first delivery of electricity produced by a renewables installation. This deadline cannot exceed 4 years from the date of execution of a grid connection agreement. Non-delivery of electricity within the deadline constitutes statutory grounds for termination of a grid connection agreement by a distribution/transmission system operator.

The Polish RES Law, however, provides for a mechanism to extend the deadline for first delivery of electricity for projects which have won an auction. Grid operators are obliged to adjust the deadline in grid connection agreements for the winning projects to be in line with the deadlines from the auction (e.g. for onshore wind – 33 months from the auction closure date). Annexes to grid connection agreements will then be concluded so that the agreements do not expire before the deadline for commissioning of a project.

6. WHAT IS THE COURSE OF AN AUCTION AND WHO WINS?

The date of an auction is announced by the President of the Energy Regulatory Office at least 30 days in advance before the auction.

A bidder – prospective producer submits a bid which includes the volume of electricity in MWh and the price in PLN per 1 MWh, at which the bidder agrees to sell electricity on the basis of a quasi contract for difference. The support is awarded to the lowest bidders. The auction continues until the volume and value of electricity specified in an announcement of an auction is fully exhausted. When several bidders offer the same lowest selling price, and the volume of electricity declared to be produced exceeds the volume referred to in the announcement of the auction, the order of submitted bids is decisive. Winning producers' offers may not jointly exceed 100% of the value of electricity specified in the announcement of the auction and 80% of the volume of electricity covered by all bids. This second cap is aimed at guaranteeing sufficiently competitive auctions.

Within 21 days from an auction closure date, the President of the Energy Regulatory Office publicly announces, on its website, information about:

1. the results of the auction (i.e. the producers who won the auction, the minimum and maximum price at which electricity was sold in the auction, as well as the total volume of electricity sold and its value), or
2. invalidation of an auction, if that happens.

An auction may be invalidated only if all offers have been rejected or if it could not be carried out for technical reasons. If the results of an auction have already been published, the auction is settled and final.

7. WHAT IS THE PERIOD OF SUPPORT?

The period of support lasts for 15 years from the date of sale of electricity for the first time after the date of winning a given auction, but no longer than until 30 June 2047. Under previous regulations, the deadline was 30 June 2039, but the amendment to the Act on Renewable Energy Sources of 17 September 2021 extended the deadline to 30 June 2047.

8. WHAT IS THE MECHANISM OF SUPPORT?

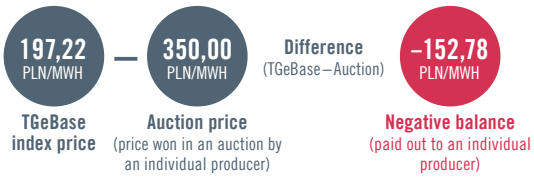
Industrial-size installations (above 0.5 MW) that have won an auction, sell the produced electricity on the electricity market at the market price, to a chosen offtaker, after which they may apply for additional payments to reach their auction price. This is done by way of an application to cover the "negative balance". The monies are paid out by Zarządca Rozliczeń S.A., a state-owned corporation responsible for carrying out the settlements of the "negative balance". Under the Polish RES Law, the "negative balance" is the difference between the net value of the sale of electricity in a given month (as calculated on the basis of a commodities exchange index) and the value of that electricity determined on the basis of the price contained in a producer's offer that won an auction. Please also

note that the latter is indexed annually to the inflation rate in Poland.

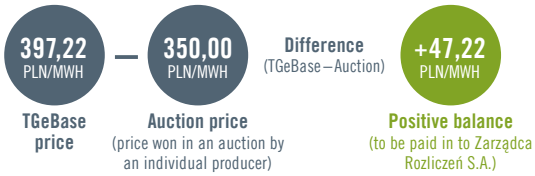
The volume of electricity subject to the settlement is determined on the basis of actual indications of measuring devices in a given month. A producer from an installation informs Zarządca Rozliczeń S.A., within 10 days after the end of the month, of:

1. the volumes and prices of electricity sold in the previous month,
2. data on the value of the electricity (prices published by the Polish Power Exchange – TGeBase index) and
3. the producer submits an application to cover the negative balance.

In consequence, the "negative balance" is the difference between the value of produced electricity calculated on the basis of the TGeBase index and the value of such electricity established pursuant to the price from a respective auction bid of an individual producer. Zarządca Rozliczeń S.A. is obliged to verify an application for covering the "negative balance" within 30 days and pay the producer in question the relevant funds, as per the example below.



Please note that in the example the balance can also be positive, especially in case of a substantial increase of wholesale electricity prices. In such a scenario, the producer could be obliged to pay back the positive balance to Zarządca Rozliczeń S.A. Any positive balance is set off against any future negative balance on an "as-we-go" monthly basis. Now, due to the amendment of the RES Act of 17 September 2021, three-year positive balance settlement periods of outstanding positive balance have been introduced, with a payback period of up to 6 months after the end of the respective period. This change applies both to future auctions and to those generators who have already won an auction. As a consequence of its entry into force, the amendment affects to the greatest extent those generators whose auction bids provided for prices lower than the current market prices of energy according to TGE Base.



There is no obligation to sell electricity produced by renewables through a commodities exchange.

9. WHAT ENERGY PRODUCING EQUIPMENT CAN BE INSTALLED?

An investor who won an auction is restricted in terms of generating devices that can be installed. The Polish RES law stipulates that devices used for generating and processing electricity must be new, and produced within certain dates proceeding the day of first production of electricity. This is detailed in the table below.

Category of renewable installation	Equipment not older than
Onshore wind	33 months
Photovoltaics	24 months
Offshore wind	72 months
Biomass	42 months

Table No. 2

10. WHAT ARE THE RESPONSIBILITIES OF AN INVESTOR WHO WON AN AUCTION?

The first obligation imposed on an investor is to produce electricity for the first time, while already holding a generation concession, within certain deadlines from the auction closure date. Failure to timely meet this obligation results in an exclusion from the auction system and loss of the deposit. This is detailed in the table below.

Category of renewable installation	Deadline to produce electricity with a concession in place
Onshore wind	33 months from the auction closure date
Photovoltaics	24 months from the auction closure date
Offshore wind	72 months from the auction closure date
Biomass	42 months from the auction closure date

Table No. 3

The second obligation is to produce the volume of electricity declared in the offer. However, an option of one update of the offer following the auction, with respect to, in particular, the planned date of commencement of the period of use of the support system and the volume of electricity planned for sale in subsequent calendar years (the total volume will however need to remain constant). The volume is settled after the expiry of each 3 full calendar years

in which support was granted, and after the lapse of the entire period of support. If an installation fails to produce at least 85% of the volume specified in a winning offer in a relevant settlement period, the producer is subject to a fine. The fine is calculated as 50% of the product of the auction price and the difference between the electricity that was supposed to have been produced, pursuant to the auction offer and the energy actually produced. However, the financial penalty will not apply if the required volume of electricity was not produced as a result of:

1. application of the generally binding law;
2. the need to ensure security of the grid;
3. a power system failure;
4. force majeure, e.g., natural disasters, war, acts of terrorism, riots;
5. the technical failure of an installation – violent, unpredictable and independent of the producer, damage or destruction of an installation or destruction of buildings or facilities essential for its operation.

11. THE IMPACT OF COVID-19 PANDEMIC LEGISLATION ON THE RESPONSIBILITIES OF ELECTRICITY PRODUCERS WITHIN THE AUCTION SYSTEM

Due to the global outbreak of COVID-19 pandemic and subsequent introduction of the state of epidemic in Poland, Polish government adopted a set of legislation aimed at casting off the emerging economic crisis, including the Act of 31 March 2020 on the amendment of the Act on specific measures to prevent, combat and eradicate COVID-19, other transmissible diseases and their associated emergencies. Also known as Anti-Crisis Shield 1.0, the Act introduced amendments to the RES Act of 20 February 2015. The amendment enabled the RES energy producers benefiting from the auction support system, in the event of specific circumstances caused by the state of epidemic (or the state of epidemic hazard), to apply to the President of the ERO for an extension (by a maximum of 12 months) of the deadline to sell electricity generated in the RES installation for the first time within the auction system and for an extension of the permissible "age" of equipment included in the RES installations. For PV, the deadline for the first sale of electricity will be thus a maximum of 36 months (instead of the previous 24) and for onshore wind – 45 months (instead of the previous 33).

The President of the ERO, at the request of a producer, shall issue a decision to extend the indicated deadlines in case of delays in the implementation of investments in the new RES installations involving a delay:

1. in the delivery of equipment that is part of the RES installation;
2. in the supply of elements necessary for the construction of the RES installation;
3. in the construction of the RES installation and connections to the power grid;
4. in carrying out the technical acceptance or start-up of the RES installation;
5. in obtaining a concession or entry in the registers specified in the RES Act, caused by the state of epidemic (or the state of epidemic hazard).

In the request, the producer shall provide, among others, a statement of supplier (or of the producer) confirming that a delay in the delivery of equipment or the start-up of the RES installation is due to the above mentioned circumstances.

All the RES installations that have won the auctions and which have not yet met the deadline for starting the production/sale of electricity in the auction system may exercise the right to extend the spoken periods. The application must be submitted by the producer at the latest 30 days before the deadline for fulfilment of the obligation.

The existing right to change the deadline for the first sale of energy (as per art. 17(3) of the Act of 19 July 2019 amending the RES Act and certain other acts) and the new right to extend the deadlines due to the COVID-19 pandemic are non-competitive with each other. That means that the producer may exercise both these rights together.

In order to fully meet the needs of RES electricity producers, the possibility of extending the above described deadlines was harmonized with respective right concerning the grid connection agreements. The Anti-Crisis Shield 2.0, i.e. the Act of 16 April 2020 on specific support instruments in relation to the spread of the SARS-CoV-2 virus provided the amendment to the RES Act, on the basis of which power companies are obliged to adjust in the grid connection agreements the date of the first delivery of electricity from the RES installations to the grid, taking into account the extension of the deadline granted by the President of ERO under the Anti-Crisis Shield 1.0, within 30 days of the day on which the producer informed them of winning the auction.

12. HOW IS THE FINANCING OF THE AUCTION SYSTEM SECURED?

Funds in the auction system are required for the payment of the “negative balance” and the functioning of the entity covering the balance Zarządca Rozliczeń S.A. They are secured via a renewables fee. The renewables fee is collected by distribution system operators (“DSO”). DSOs collect the renewables fee predominantly from final off-takers interconnected directly to their grid, i.e. mainly households. Therefore, financing of the auction system is not influenced by the government budget.

The rules for calculating the renewables fee by DSOs are set forth in the respective statute. DSOs calculate it as a product of the renewables fee rate and the sum of electricity consumed. The renewables fee rate is published in the bulletin of the President of the Energy Regulatory Office until 30 November of each calendar year.

13. WHAT IS THE RISK OF THE STATE EVADING ITS RESPONSIBILITIES FOLLOWING AN AUCTION?

Although no written agreement is entered into between Zarządca Rozliczeń S.A. and the auction winner, the legal relationship between such a producer and the Polish state takes the form of a binding obligation, by statutory law. The elements of this obligation are construed on the basis of the Polish RES Law and documents published by the President of the Energy Regulatory Office – published auction results. In consequence, if Zarządca Rozliczeń S.A. fails to pay a due amount of money, a producer can enforce its rights in a common court. A producer can also be protected by bilateral investment treaties or the Energy Charter Treaty, providing for investment arbitration outside Poland, provided that the investment is adequately structured in advance. It's worth mentioning, that this arrangement is deemed sufficient to bank financing on a non-recourse basis (project finance).

14. IS IT POSSIBLE TO TRANSFER THE RIGHTS AND OBLIGATIONS ACQUIRED AT AN AUCTION?

Under the Polish RES Law, it is admissible to either acquire a project which won an auction or acquire shares in a company holding such a project. In the former case, it is necessary to apply to the President of the Energy Regulatory Office for consent. Granting of such consent is dependent on a statement by a buyer, which should include a declaration by the buyer that electricity will be produced purely from renewables, in the installation related to the auction and that the buyer accepts the rights and obligations of a RES producer.

15. SUMMARY OF THE SELECTED 2021 AUCTIONS

The last auctions for wind and solar projects took place in December 2021. It was the second round of auctions, next to the auctions that took place in June 2021.

The volume of electricity for new small PV and wind installations was set at 2.7 TWh with a value of over PLN 2.5 billion. The reference price of electricity for wind installations up to 1 MW was 320 PLN/MWh, while from small photovoltaic installations was 340 PLN/MWh.

All auctions held in December were for new installations. Photovoltaic projects dominated the so-called "small basket" for wind and photovoltaic projects up to 1 MW. 182 producers joined the auction, placing a total of 401 bids, and all the bids were submitted by PV producers only.

As a result of resolving the auctions, 99.9% of the energy volume was sold within 309 offers submitted by 141 generators, with the total value of only PLN 677 million (which constitutes 27% of the value of energy allocated for sale). This means that the price of energy offered by generators in PV installations is falling.

2021 auction results
(New installations GWh)

Diagram No. 5

The minimum price at which energy was sold was 219 PLN/MWh (for comparison, back in 2019 the minimum price at which energy was sold was 269 PLN/MWh). On the other hand, the maximum price at which energy was sold was 278.9 PLN/MWh (for comparison: in 2019 it was 327 PLN/MWh). As a result of the auction, more than 2.7 TWh were contracted.

The winners included generators from below the Pro Vento Energia holding, R.Power, Equinor and Alseva Innowacje.

In contrast to the PV-dominated auction of the first half of the year, the December 2021 auction for wind and photovoltaic projects with a capacity of more than 1 MW, had a PV installed capacity of around 55.3% among the winners. The possible amount of energy to be sold in this basket was 14.1 TWh and its value was over PLN 5 billion. The maximum price (i.e. reference price), which could be placed in the offer for wind installations with capacity above 1 MW, amounted to 250 PLN/MWh, and for photovoltaic installations – 320 PLN/MWh. The auction was joined by 88 producers, who placed 89 bids in total. As a result of the auction slightly over 11 TWh of energy of total value exceeding 2,5 billion was sold. As a result of the auction, photovoltaic installations with the capacity of approx. 570 MW and onshore wind farms with the capacity of approx. 460 MW may be created. Minimum price at which the energy was sold in this auction basket was 139,64 PLN/MWh, while the maximum price was 261,07 PLN/MWh. The winners included Pro Vento Energia, Polenergia Farma Wiatrowa Grabowo sp. z o.o., PGE Energia Odnawialna S.A. or RWE Solar Poland sp. z o.o.

16. REFERENCE PRICES (MAXIMUM BID PRICES) FOR DIFFERENT CATEGORIES OF RENEWABLES FOR 2021

Below are the reference prices resulting from the Regulation of the Minister of Climate and Environment of 16 April 2021 on the reference price of electricity from renewable energy sources in 2021 and the periods applicable to producers that won the auctions in 2021 (Journal of Laws 2021.722).

No.	Type of renewables installation	Reference price (PLN/MWh)
1.	Installations with a capacity below 0.5 MW using only agricultural biogas	650
2.	Installations with a capacity below 0.5 MW using only agricultural biogas in high-efficiency cogeneration	760
3.	Installations with a capacity below 0.5 MW using only biogas obtained from landfills	605
4.	Installations with a capacity below 0.5 MW using only biogas obtained from landfills in high-efficiency cogeneration	665
5.	Installations with a capacity below 0.5 MW using only biogas obtained from sewage treatment plants	420
6.	Installations with a capacity below 0.5 MW using only biogas obtained from sewage treatment plants in high-efficiency cogeneration	510
7.	Installations with a capacity below 0.5 MW using only biogas other than obtained from agricultural biogas, landfills or sewage treatment plants	470
8.	Installations with a capacity below 0.5 MW using only biogas other than obtained from agricultural biogas, landfills or sewage treatment plants in high-efficiency cogeneration	530

No.	Type of renewables installation	Reference price (PLN/MWh)
9.	Installations with a capacity below 0.5 MW using only hydropower	640
10.	Installations with a capacity not below 0.5 MW and not exceeding 1 MW using only agricultural biogas	590
11.	Installations with a capacity not below 0.5 MW and not exceeding 1 MW using only agricultural biogas in high-efficiency cogeneration	700
12.	Large Installations (above 1 MW) using only agricultural biogas	570
13.	Large Installations (above 1 MW) using only agricultural biogas in high-efficiency cogeneration	670
14.	Installations with a capacity not below 0.5 MW using only biogas obtained from landfills	590
15.	Installations with a capacity not below 0.5 MW using only biogas obtained from landfills in high-efficiency cogeneration	655
16.	Installations with a capacity not below 0.5 MW using only biogas obtained from wastewater treatment plants	385
17.	Installations with a capacity not below 0.5 MW using only biogas obtained from wastewater treatment plants in high-efficiency cogeneration	475
18.	Installations with a capacity not below 0.5 MW using only biogas other than obtained from agricultural biogas landfills or sewage treatment plants	435
19.	Installations with a capacity not below 0.5 MW using only biogas other than obtained from agricultural biogas landfills or sewage treatment plants in high-efficiency cogeneration	495
20.	Dedicated biomass combustion installations or hybrid systems	465
21.	Thermal waste treatment installations or dedicated multi-fuel combustion installations	350
22.	Installations with a capacity not exceeding 50 MW in a dedicated biomass combustion installation or hybrid systems, in high-efficiency cogeneration	490
23.	Installations with a capacity higher than 50 MW in a dedicated biomass combustion installation or hybrid systems, in high-efficiency cogeneration	465
24.	Installations using only bio-liquids	475
25.	Installations with a capacity not exceeding 1 MW using only onshore wind energy	320
26.	Large Installations (capacity higher than 1 MW) using only onshore wind energy	250
27.	Installations with a capacity of not below 0.5 MW and not exceeding 1 MW using only hydropower	575
28.	Large Installations using only hydropower	550
29.	Installations using only geothermal energy	455
30.	Installations with a capacity not exceeding 1 MW using only solar energy	340
31.	Large Installations (capacity higher than 1 MW) using only solar energy	320
32.	Small hybrid installations	415
33.	Large hybrid installations	410

Table No. 4

This guide is based on selected publicly available information and does not constitute legal advice.

The Polish Wind Energy Association (PWEA) is a non-governmental organization, established in 1999, to support and promote the development of wind energy in Poland. PWEA is an association of around 100 leading wind energy companies active on the Polish market: investors, developers, turbine and component manufacturers. PWEA groups key industry players from abroad, as well as Polish entrepreneurs, investors, producers and service providers across the entire onshore & offshore wind supply chain.

Main areas of PWEA activity are:

- participation in consultations of legislative regulations, strategies, policies and sectoral programs and taking action to implement new legal regulations fostering wind energy development in Poland;
- direct cooperation with the ministry in charge of economy, the environment as well as other ministries directly or indirectly related to energy and renewable energy sources;
- cooperation with European Union institutions;
- cooperation with Polish and European Parliament MPs;
- promotion of wind energy and knowledge about the technology;
- increasing social and political awareness concerning wind energy;
- participation in national and international industry conferences as an expert on wind energy in Poland.

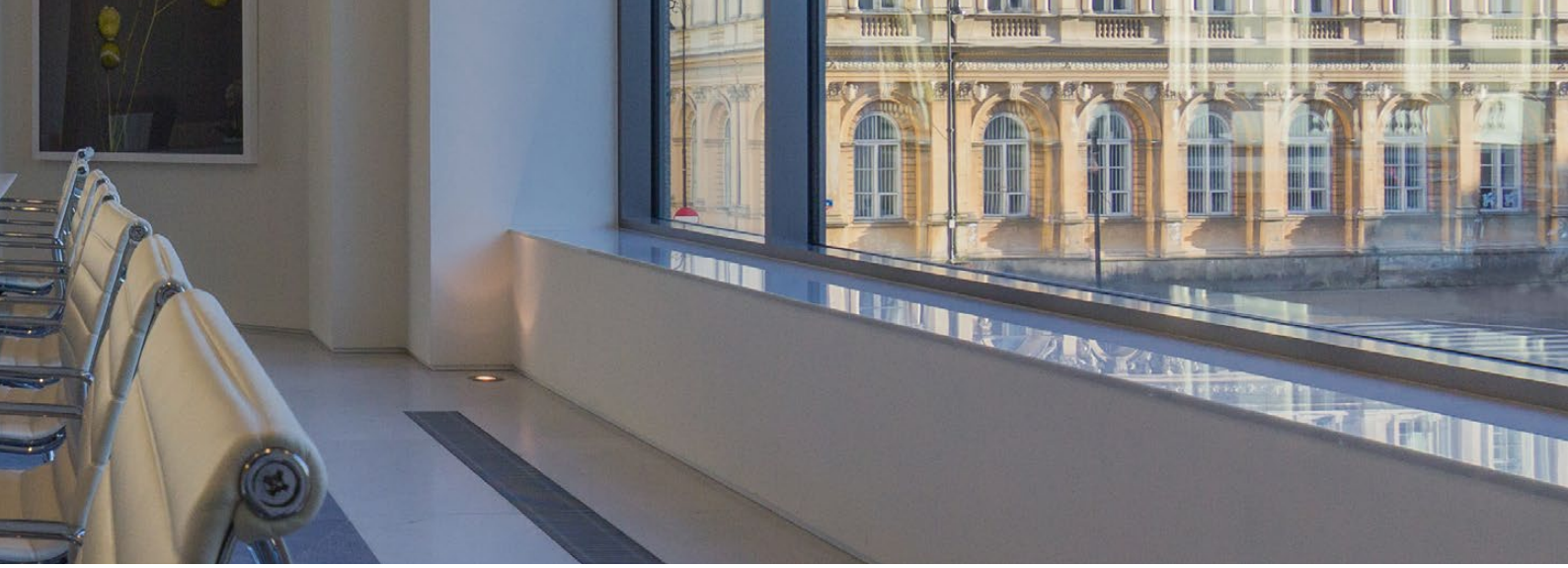
PWEA is a member of the WindEurope and Polish Committee of World Energy Council.

www.psew.pl

DWF in Poland currently consists of over 140 professionals. As a team, we have been providing legal services in Poland since 1991.

Our lawyers have extensive experience in providing comprehensive legal services for private companies, international corporations and state-owned entities. Our achievements are widely recognized by our clients, peers and market participants as well as leading international rankings.

The Warsaw office key practices include renewable energy, environment, mergers and acquisitions, project finance, real estate, construction and infrastructure, capital markets, banking, finance and restructuring, intellectual property, dispute resolution, tax and employment, as well as public procurement.



We are a law firm focused on complicated, precedent-setting, unique cases and transactions. This requires knowledge, experience, skills and the ability to act fast. We are proud of our participation in the biggest and most complex disputes and transactions on the Polish and European markets. We also offer our clients specialized expertise in sectors such as conventional and innovative energy, industrials, nuclear power, mining, transport, aviation, aerospace and defence, the film industry, media, TMT and outsourcing.

Our lawyers are regularly recommended by independent international rankings, such as Chambers Global, Chambers Europe, Legal 500, IFLR1000 as well as WTR100 and Managing IP. Our lawyers actively participate as speakers at key sector conferences, seminars and workshops on, inter alia, environmental, energy, construction, litigation and arbitration law issues.

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RENEWABLE ENERGY DEPARTMENT

Our Warsaw Office has a distinctive, full-size, comprehensive practice devoted entirely to renewable energy. It is one of the most recognized RES practices on the Polish market, and a one-stop-shop for clients active in renewables.

We assist in all legal matters related to the RES sector, including investments (development, permitting and licences, grid connections, transactions, environmental issues, M&A), day-to-day operations, as well as disputes. We have been involved in acquisitions and development of a vast number of solar and wind projects, both onshore and offshore. The team is also renowned for advice in regulatory and legislative matters.

We assist sector chambers and organizations, as well as individual clients, in solving complex regulatory matters and building their position on sectoral issues. For example, we support clients in a number of energy regulatory disputes before the President of the Energy Regulatory Office and courts. We assist the Polish Wind Energy Association and the Polish Photovoltaics Association, strengthening the organizations' efforts with respect to issues concerning the support scheme for renewables in Poland and the EU. We are also involved in works of the Offshore Taskforce of the Polish Wind Energy Association in which we help to work out proposals for the regulatory environment for offshore wind.

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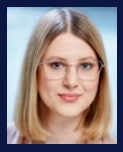

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