

National Report of the President of URE 2023

– executive summary

The National Report of the President of the Energy Regulatory Office (URE) provides an insight into the situation on the Polish electricity and gas market in 2022 and presents the status of the energy market in Poland and the measures undertaken by the Polish Regulator in 2022.

Legislative and regulatory changes on the electricity and gas markets

Similarly to previous years, the year 2022 saw very intensive legislative work dedicated to significant amendments to the Energy Law. Act.

The President of URE was entrusted with a number of tasks of an interventionist and preventive nature, as a consequence of the geopolitical situation, which called for actions aimed at protecting energy and gas consumers, in particular vulnerable consumers. Accordingly, a number of regulations were introduced to ensure the availability of supplies and to statutorily restrict the increase in the prices of energy, gas and heat for certain groups of consumers by establishing maximum prices, while at the same time guaranteeing the right to pay compensation to energy companies obliged to use prices lower than market prices in settlements with certain consumers.

Key legislative changes introduced in 2022:

- 1) the Act of 26 January 2022 on Special Solutions for the Protection of Consumers of Gaseous Fuels due to the Situation on the Gas Market¹⁾ – entered into force on 29 January 2022. This Act expanded the groups of gaseous fuels consumers for whom energy companies are obliged to apply tariffs approved by the President of URE and established a system of compensation for energy companies incurring higher costs of purchasing gaseous fuel,
- 2) the Act of 24 February 2022 amending the Energy Law Act²⁾
The provisions of this Act came into force on 26 March 2022. The principal changes made by the Act include:
 - clarification of the regulation related to connection to gas operators' networks, e.g. regarding connection fees;
 - specification of the competences and obligations of gas system operators;
 - further specification of the competences of the President of URE with respect to establishing the content of the agreement entrusting the performance of the duties of a gas transmission system operator;
 - specific provisions concerning the process of establishing tariffs by gas operators,
- 3) the Act of 5 August 2022 amending Certain Acts to Strengthen Gas Security of the State due to the Situation on the Gas Market³⁾ – entered into force on 1 September 2022. It contains powers for the minister responsible for energy to, for example, prepare a development plan and a preventive measures plan in case of emergency situations. It also introduces the obligation for the storage system operator to prepare a development plan for meeting current and future storage facility capacity needs. In addition, regulations applicable in the event of a planned change of the type of gaseous fuel supplied in the gas network from nitrogenous natural gas to high-methane natural gas have been established. The quota limit for the obligation to obtain a licence for trading in gaseous fuels has been abolished. A temporary waiver of the obligation to sell high-methane natural gas on commodity exchanges and regulated markets was allowed in the event of the declaration of a state of emergency under the provisions of the Act on Stocks. In addition, the final date for the obligation

¹⁾ Journal of Laws of 2022, item 202, as amended, hereinafter referred to as “the Act of 26 January 2022”.

²⁾ Journal of Laws of 2022, item 631.

³⁾ Journal of Laws of 2022, item 1723, hereinafter referred to as “the Act of 5 August 2022”.

of energy companies trading in gaseous fuels to submit tariffs for certain groups of consumers to the President of URE for approval was extended.

The Act of 5 August 2022 amended the Act on Stocks. This amendment introduced a definition of the gas security of the state and established and specified the principles of proceeding in the event of jeopardised gas security of the state and the need to fulfil international obligations (including declaring a state of emergency, releasing mandatory natural gas stocks and introducing restrictions),

- 4) the Act of 7 October 2022 on Special Solutions for the Protection of Electricity Consumers in 2023 due to the Situation on the Electricity Market⁴⁾. The amendments, which came into force on 18 October 2022, supplemented the regulations in the Energy Law Act related to the performance of default supplier tasks,
- 5) the Act of 29 September 2022 amending the Energy Law Act and the Act on Renewable Energy Sources⁵⁾. The Act entered into force on 6 December 2022. The principal change made by the Act is the repeal of Article 49a, that is, the abolition of the obligation to sell electricity on commodity exchanges or regulated markets (the so-called exchange obligation). Penalties for market manipulation have been made more severe,
- 6) the Act of 27 October 2022 on Emergency Measures to Reduce Electricity Prices and Support Certain Consumers in 2023⁶⁾,
- 7) the Act of 15 December 2022 on the Special Protection of Certain Consumers of Gaseous Fuels in 2023 due to the Situation on the Gas Market⁷⁾ – entered into force on 21 December 2022 and amended, among others, Article 7 by introducing a number of detailed provisions regulating the procedure for connection to the grid (e.g. imposing an obligation on network companies to estimate the connection fee). Regulations regarding the certification of storage system operators have been added and included in a separate editorial unit, extending the remit of the President of URE to include the granting of certificates and, subsequently, the designation of a certified undertaking as a storage system operator. The catalogue of sanctions applied by the regulator has been expanded to include penalties with respect to the introduced regulations, e.g. for non-compliance with the new connection obligations. This Act also amends the RES Act.

The systematic expansion of the regulator's competences and tasks and the rapidly changing market situation have translated into a significant increase in the number of cases processed at the Energy Regulatory Office. This is illustrated by the nearly 40% higher number of administrative decisions issued in 2022 compared to the previous year. At the same time, it should be noted that obtaining funds for the implementation of these tasks is becoming increasingly difficult.

Electricity market

The volume of gross domestic electricity production in 2022 was at a higher level compared to the previous year and amounted to 175,157 GWh (an increase of (-)0.9% compared to 2021). During the reported period, gross domestic electricity consumption amounted to 173,479 GWh, a decrease of (-)0.53% compared to 2021.

In 2022, in the domestic balance of physical flows of electricity, imports accounted for 8.0% of total inflows, while exports accounted for 8.9% of electricity outflow. Compared to 2021, the share of imports remained unchanged, while the share of exports increased by 1.3 percentage points.

The structure of electricity generation changed only marginally compared to the previous year. The vast majority of generation is still based on conventional fuels, that is, hard coal and lignite.

⁴⁾ Journal of Laws of 2023, item 269, as amended, hereinafter referred to as “the Act of 7 October 2022”.

⁵⁾ Journal of Laws of 2022, item 2370, as amended.

⁶⁾ Journal of Laws of 2022, item 2243, as amended, hereinafter referred to as “the Act of 27 October 2022”.

⁷⁾ Journal of Laws of 2022, item 2687, as amended, hereinafter referred to as “the Act of 15 December 2022”.

However, a noticeable change is the increase in the share of generation from renewable energy sources. In wind sources, the share of electricity generation increased from 8% to 10%, and in other renewable sources, the share increased from 3% to 5%.

In 2022, the installed capacity of the National Power System (NPS) stood at 60,446 MW and the generating capacity at 59,578 MW, an increase of 12.7% and 9.6%, respectively, compared to 2021⁸⁾.

The average annual capacity demand amounted to 23,389.0 MW with a maximum demand of 27,296.2 MW, a decrease of 1.20% and 1.16%, respectively, compared to the data of the immediately preceding year.

The ratio of available capacity to achievable capacity in 2022 continued its downward trend and amounted to 51.8% (a decrease of 5.8 percentage points compared to 2021).

In 2022, similarly to previous years, the PGE Polska Grupa Energetyczna S.A. group had the largest share of the energy market in the electricity generation subsector. In the period under review, the group also maintained its leading position in the market for sales to final customers.

The top three generators concentrated in groups in the examined 2022 continued to be: PGE Polska Grupa Energetyczna S.A., ENEA S.A., TAURON Polska Energia S.A. (they had a total of almost half of the installed capacity). On the other hand, in terms of the volume of electricity fed into the grid, TAURON Polska Energia S.A. was pushed out of the group of the three mentioned generators by PKN Orlen S.A. (these generators were responsible for more than 2/3 of the electricity production in the country). It is worth noting that in 2022, generators from the PKN Orlen S.A. group significantly strengthened their position on the electricity generation market, among others due to the acquisition of generators from the PGNiG S.A. group into their structures.

The year 2022 saw an increase in electricity prices on the forwards market operated by TGE S.A., as reflected in the year-on-year increase in the price of the BASE_Y forwards contract (annual contract in band delivery for the following year). The volume-weighted average transaction price of the BASE_Y-23 contract throughout 2022 was at the level of 1,110.04 PLN/MWh, while in 2021, the volume-weighted average transaction price of the corresponding BASE_Y-22 forwards contract amounted to 384.16 PLN/MWh.

At the same time, the average monthly price of BASE_Y-23 contracts concluded in December 2022 was PLN 1,068.63/MWh, while the average monthly price of analogous BASE_Y-22 contracts concluded in December 2021 was PLN 721.84/MWh. This represents a 48% increase in the price of these contracts.

The volume-weighted average price of electricity on the DAM in 2022 was 796.17 PLN/MWh and was higher than in 2021 by 395 PLN/MWh, when the price amounted to 401.17 PLN/MWh.

In the electricity market, there were five large DSOs, subject to legal unbundling obligation, whose networks are directly connected to the transmission network (so-called DSOp), and 182 designated DSO companies, whose networks have no direct connections to the transmission network (so-called DSON).

The supply side of the retail energy market consists of energy suppliers offering the commodity to final customers. This group includes:

- six suppliers operating within groups, jointly with distribution system operators, but under separate legal entities,
- suppliers in entities that are also distribution system operators (183 in 2022),
- independent electricity suppliers - entities not related to the distribution activity in Poland.

In 2022, of the more than 17.3 million consumers in the retail market (more than 18.7 million counting by point of energy consumption), approximately 90.7% were consumers who purchase energy for household consumption (data based on the President of URE's survey conducted among 46 DSOs). The remaining group of final customers are those belonging to tariff groups A, B and C. Groups A and B comprise consumers supplied from the high and medium voltage grid and are the so-called industrial consumers from groups A and B, while group C includes consumer connected to the low voltage grid, consuming electricity for business purposes, the so-called business consumers. Electricity consumers are entitled to receive electricity continuously and reliably from the selected supplier of that electricity.

⁸⁾ As at 31 December 2021 and 31 December 2022, data of PSE S.A.

The extraordinary circumstances in 2022, which caused surges in prices on wholesale markets, did not leave the retail market unaffected. At the same time, it turned out that both the national energy law and the long-term policy of the President of URE of applying high requirements to the assessment of the financial viability of conducting business in electricity trading, that is, the granting of energy trading licences only to entrepreneurs with sufficient capital and the use of financial securities, spared the Polish retail energy market from a wave of large-scale bankruptcies. No less important were also the back-up supply solutions, which were launched efficiently and, in most cases, ensured continuity of energy supply for consumers.

The average energy price for the fourth quarter of 2022, compared with the price in the same period of the previous year, shows an increase of 69.6%, and distribution fees increased by an average of 14.8%. Consumers in tariff group C (137.3%) were most affected by the energy price increases. For consumers in households, the price increase amounted to 37.22% on average, however, it should be remembered that more than 60% of these consumers benefit from prices established in tariffs approved by the President of URE. In 2022, the cost of electricity supply increased by 47.32% on average, as the growth rate of distribution fees was also above average (in the household group, the increase was 10.62%, and the highest percentage was in tariff group B). Overall, the energy price, distribution fee rates and the total cost of energy supply increased in all consumer groups, and their value (nominally) was at previously unobserved level.

In 2022, the number of consumer exercising their right to choose their supplier increased by 3.62% compared to 2021, whereby in the institutional consumers group (tariff groups A, B and C), the change was 4.29% (approximately half a percentage point less than the previous year), while in tariff group G (including households), it was an increase of 2.85% (0.6 percentage points more than the previous year). The total amount of electricity supplied to final customers in 2022 under market conditions, that is, after taking advantage of the TPA rule, amounted to 80,973,195 MWh, that is 54.89% of the total energy supplied to final customers.

Gas market

Gas purchases from abroad for the needs of customers in Poland, amounting to 154.5 TWh, were supplemented by gas from domestic sources amounting to 39.8 TWh. Total gas supplies from abroad in 2022 included imports and intra-Community acquisitions. 216.2 TWh of high-methane gas and 6.8 TWh of nitrogenous gas flowed through the Polish transmission system.

At the end of 2022, 176 entities held a licence to trade in gaseous fuels, compared to 180 at the end of 2021. In contrast, 89 companies were actively involved in natural gas trading. Gas trading companies outside the PKN Orlen Group acquired 78.6 TWh of natural gas.

Gaseous fuels are sold and purchased on the Polish wholesale market primarily on the exchange market operated by TGE S.A. (the Commodity Market - CM and as of 1 May 2020 – Organised Trading Facility - OTF). Participants in the exchange market are mainly companies trading in gaseous fuels and the largest final customers, who may act independently after concluding an appropriate agreement with TGE S.A., becoming members of the Commodity Market (CM) and the Organised Trading Facility (OTF), respectively, or through brokerage houses or other entities with the status of members of the CM and OTF from their own group, which may conclude transactions on behalf of other entities belonging to the same group.

In 2022 TGE S.A. operated the following markets for the sale of gaseous fuels: Intraday Market (IDMg), Day-Ahead Market (DAMg) and Gas Forwards Market (GFM) of the Organised Trading Facility (OTF).

In 2022, following the performance of contracts executed on TGE S.A., 153,661,626 MWh of natural gas were delivered over the entire quotation period of a given type of contract at an average price of 330.63 PLN/MWh (18,061,483 MWh on the DAMg market at the average price of PLN 552.48/MWh,

4,707,448 MWh on the IDMG market at the average price of PLN 527.46/MWh and 130,892,695 MWh on the forward market at the average price of PLN 292.94/MWh).

A total of 22.0 TWh of natural gas was delivered at a weighted average price of PLN 524.74/MWh as a result of contracts executed at the virtual point on the OTC market, irrespective of the contract date.

At the end of 2022, 124 suppliers had agreements executed with the TSO allowing sales on the retail market (a decrease of 9 compared to 2021), and in the area of the distribution network (PSG Sp. z o.o.) – the number of agreements amounted to 57 (a decrease of 16 compared to 2021). In the network of the largest DSO, 37 suppliers of high-methane natural gas were actively selling (at least one valid contract with a customer).

As at 31 December 2022, 51 distribution system operators were active in the natural gas market.

In 2022, 27 natural gas trading companies and 11 of the largest distribution system operators were included in the President of URE's detailed examination. The DSOs included in the study had 6,994,305 consumers (7,189,602 gas consumption points) connected to the network for high-methane gas and 382,152 consumers (395,566 gas consumption points) for nitrogenous gas.

The retail market for natural gas (high-methane and nitrogenous) is characterised by strong concentration. The share of GK PGNiG entities in sales of gas to final customers connected to distribution networks amounted to just over 89% (88.7% for high-methane gas and 92.5% for nitrogenous gas), having increased by 0.3% year on year. The share of GK PGNiG entities in the retail market for liquefied natural gas (LNG) also increased, reaching 29% (in 2021 the share was 19.25%). On the other hand, the share of gas sales to final customers by alternative trading companies selling to final customers in Poland was 10.98% (compared to 11.26% in 2021).

There was one last resort supplier functioning for the transmission network area – PGNiG OD Sp. z o.o., while in the distribution network there were several suppliers able to provide back-up supply. Between 1 January to 31 December 2022, supply of last resort, or supplies conducted pursuant to Article 5ab⁹⁾ of the Energy Law, were launched by the DSOs for 32,115 gas consumers (both high-methane gas and nitrogenous gas). Of these, more than 99% of consumers (31,882) were high-methane gas consumers in tariff group W 1-4 (contracted capacity of no more than 110 kWh/h), while in group W 5-13 high-methane gas consumers accounted for 0.7% of consumers. In the case of nitrogenous gas, on the other hand, supply of last resort were launched for five consumers (in four cases these were households).

At the end of 2022, the number of supplier switching (cumulative) was 292,589. This means that 8,940 entities joined the group of consumers who switched supplier during 2022. This number represents approximately 60.85% of the corresponding number from the previous year (14,693 consumers).

The majority of supplier switching cases in 2022 (just under 56%) were recorded in the first quarter and represented the implementation of contracts concluded in 2021, but the number of such switches accounted for as much as 99.9% of the number of switches in the corresponding period of 2021. In the subsequent quarters of 2022, the number of supplier switches gradually decreased and in the third quarter was only 24.57% of the number of switches in the third quarter of 2021. In the fourth quarter of 2022, the number increased slightly, but continued to represent only 43.58% of the number of supplier switches in the last quarter of 2021. The reason for the gradually decreasing number of supplier switching is the reluctance of consumers to take the risk of seeking a different supplier on the market than the default supplier during a difficult market situation. In addition, given the material increase in purchase prices (and the associated risks), suppliers have significantly reduced their offerings and, in some cases, there have even been cases where contracts have been terminated before their entry into force.

2022 was a year of further substantial changes in gas fuel prices. Since the beginning of the year, gas prices were on the rise. We also had to deal with a very dynamic and hitherto unobserved situation on the European gas market, in particular in connection with the outbreak of war in Ukraine, resulting

⁹⁾ Pursuant to Article 5ab of the Energy Law Act.

in high prices for this fuel. The cost of acquiring natural gas was rising, both in the case of purchases of gas products on TGE S.A. or other trading platforms and in B2B contracts.

As a consequence of the substantial price increase – by the Act of 26 January 2022, for the period from 1 January to 31 December 2022, a price freeze mechanism for gaseous fuels was introduced for consumers covered by tariff protection, at the level of PLN 200.17/MWh. This price was at the same time a maximum price, which meant that consumers who had previously executed a contract with a supplier providing for a lower price were subject to this lower price until the expiry of the contract.

In 2022, the obligation to approve tariffs applied to gas sales to household consumers. By the Act of 26 January 2022 on Special Solutions for the Protection of Consumers of Gaseous Fuels due to the Situation on the Gas Market, this group was extended to include certain categories of consumers which are entities performing public utility tasks (including hospitals, schools, nurseries, kindergartens, night shelters, etc.). The provisions on tariff protection for natural gas consumers in multi-apartment buildings were also made more precise. This was a consequence of the situation on the gas market (the level of gas prices and unprecedented extent of its volatility).