National Report

The President

of the Energy Regulatory Office

of Poland

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Acronyms and Abbreviations

ACER	Agency for the Cooperation of Energy Regulators
n/a	not available
DSO	Distribution System Operator
EMA SA	*Agencja Rynku Energii SA* Energy Market Agency SA
ENTSO-E	European Network of Transmission System Operators for electricity
ENTSO-G	European Network of Transmission System Operators for gas
ERO	Energy Regulatory Office
President of ERO	President of Energy Regulatory Office
EU	European Union
DNC	Distribution Grid Code
TNC	Transmission Grid Code
LNG	Liquefied Natural Gas
LT PPAs	Long Term Power Purchase Agreements
NES	National Electricity System
OGP Gaz-System SA	Operator Gazociągów Przesyłowych Gaz-System SA
PGNiG SA	Polskie Górnictwo Naftowe i Gazownictwo SA
PSE SA	Polskie Sieci Elektroenergetyczne SA
POLPX	*Towarowa Giełda Energii SA* Polish Power Exchange
PTPiRE	*Polskie Towarzystwo Przesyłu i Rozdziału Energii Elektrycznej* Polish Association of Electricity Distribution and Transmission
RES	Renewable Energy Sources
SGT EuRoPol Gaz SA	System Gazociągów Tranzytowych EuRoPol Gaz SA
SSO	Storage System Operator
TOE	*Towarzystwo Obrotu Energią* Association of Energy Trading
TSO	Transmission System Operator
TPA	Third Party Access
UOKiK	*Urząd Ochrony Konkurencji i Konsumentów* Office of Competition and Consumer Protection

1. FOREWORD

The 9th National Report of the President of ERO presents the situation on the gas and electricity markets in Poland, as well as the most important changes in reference to the previous years. The report also contains a description of steps and actions undertaken by the Polish Regulator in order to support the development of free and competitive energy market in Poland and its integration with the markets of other Member States of the European Union.

In 2013 the works aimed at implementing the Third Energy Package into Polish law order, and thereby establishing legal basis for the further development of the energy market in Poland, were continued. This process was finalised on 11 September 2013, when the amendment to the Energy Law Act came into force.

The Amending Act had an enormous impact on the functioning of the energy market in Poland, as well as on the scope and nature of tasks performed by the President of ERO. In order to create the opportunity for the development of competitive gas market in Poland, an obligation has been introduced to sell a part of high-methane natural gas fed into national transmission network in a given year on the gas exchange or on the market organised by an entity leading regulated market in the territory of the Republic of Poland. It is a tool that shall ensure transparent rules for natural gas trading and contribute to the development of competition on the gas market in Poland.

Moreover, various prosumer activities were undertaken in the previous year. A template of the general distribution agreement for complex services was prepared. It shall simplify the process of electricity supplier switching for households due to the introduction of possibility to offer, by the alternative suppliers to its customers, the services of sale and distribution of electricity on a basis of complex agreement. It is a facilitation for the customers, allowing them to take advantage of offers that emerge on the market, contributing to acceleration of the development of this market segment by increasing the attractiveness of the offered products.

In the light of approaching year 2014 when single energy market should be created, the international aspect of the President of ERO's activity was aimed at integration of the Polish energy market with the markets of neighbouring countries. All those activities have been described in detail below, in the Report submitted to the European Commission and ACER. Thereby, the President of the Energy Regulatory Office fulfils his reporting obligation set forth in the Polish and European law.

2. MAIN DEVELOPMENTS IN THE ELECTRICITY AND GAS MARKETS

Legal and regulatory changes

In 2013 legislative works on the novelisation of the Energy Law Act were finalised, introducing amendments to the regulations in the scope of energy law and implementing to the Polish law order the provisions of Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC[1)] and Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC[2)]. The Amending Act came into force on 11 September 2013[3)].

The key amendment introduced by the Amending Act changes the position of the Regulator. It is a consequence of implementation of the Third Energy Package provisions in the scope of tasks and competences of the regulatory authority defined in directives 2009/72/EC and 2009/73/EC. The changes are aimed at strengthening the Regulator's position by ensuring legal and functional independence of the regulatory authority. The new wording of Article 21 of the Energy Law Act provides rules for an open and competitive recruitment process carried out by the Head of the Chancellery of the Prime Minister on behalf of the Prime Minister. In the course of recruitment process no more than three candidates are chosen, from among whom the Prime Minister appoints the President of ERO. Furthermore, a fixed term of office of the regulatory authority was introduced (the President of ERO is appointed for a five-year term with a possibility to renew it once). At the same time the continuity of performing the authority's tasks was ensured by obliging the President of ERO to carry out its tasks after the expiration of the term of office until the successor's appointment. Moreover, a closed list of cases in which the President of ERO can be dismissed from the position before the end of its term of office was provided, as well as a list of cases in which carrying out the President of ERO's tasks can be temporarily entrusted to the Vice-President of ERO (excluding the competence to exempt energy undertaking from the obligation to submit tariff for approval in case of ascertaining that it acts in the competitive conditions, as well as the competence to revoke the provided exemption, that is granted to the President of ERO pursuant to Article 49, paragraph 1 of the Energy Law Act). Similar provisions were introduced in reference to filling the position of the Vice-President of ERO.

One of the most important areas of regulatory activity conducted by the President of ERO in 2013 was the continuation of works on liberalization of gaseous fuels market. When assessing the effects of the actions undertaken so far to introduce competition mechanisms into the natural gas market, the Regulator recognised wholesale gas market sector as fulfilling the conditions allowing to acknowledge it as a competitive one. As a consequence, in 2013 all the energy undertakings licensed to trade in gaseous fuels might have been, after submitting a motion to the President of ERO, exempted from the obligation to submit for approval tariffs for trading in gas in the scope of its sale to the energy undertakings purchasing it as a part of their gaseous fuels trading activity. Furthermore, in 2013 within the works conducted by ERO aiming at changing the gas market, solutions simplifying the switch of gas supplier were developed. These facilitations were a result of coming into force of the Regulation of the Minister of Economy of 23 June 2013 on the specific principles for setting and calculating tariffs and financial settlements in gaseous fuels trade[4)], which set up fixed structure of charges connected with supplying fuel to the customer. In reference to the gas market, the amendment to the Energy Law Act should also be indicated, which introduced regulations enabling the development of competitive gas market in Poland, including in particular the obligation to sell gaseous fuels through gas exchanges. Introduction of the so-called gas exchange obligation,

[1)] O.J. EU L 2009, 211/55, hereinafter: "directive 2009/72/EC".
[2)] O.J. EU L 2009, 211/94, hereinafter: "directive 2009/73/EC".
[3)] Act of 26 July 2013 on the amendment of the Energy Law Act and some other acts (Journal of Laws of 2013, item 984), hereinafter: "Amending Act".
[4)] Journal of Laws of 2013, item 820, hereinafter: "tariff regulation".

understood as a tool guaranteeing the transparent rules of natural gas trading, assumes a possibility to change the structure of gas market from a monopolised towards a competitive market.

Year 2013 also brought legal changes to the functioning of electricity sector in Poland, introduced by the amendment to the Energy Law Act. The President of ERO for the first time conducted a tender procedure for the selection of activities aimed at the improvement of energy efficiency and selected winning tenders. Moreover, in the second half of 2013 the process of granting transmission system operators certifications of independence has been launched. Those were activities aimed at determining whether the operators are independent in reference to their legal and organisational form, as well as decision-making, from performing other activities not related to their main activity. The administrative proceedings in this scope were not finalised by the end of 2013.

Electricity market

Year 2013 saw further development of the electricity market in Poland. Both consumption and generation levels, as well as the number of completed commercial transactions grew. At the same time the prices of electricity fell. The structure of generation remained unchanged – most of generation is still based on conventional fuels, although a slow rise of renewable energy sources share could be observed. The wholesale electricity market maintained the high level of concentration, both in terms of volume of electricity fed into the network and installed capacity. On the retail market growth in number of customers supplied in electricity on the basis of the free-market rules could still be observed. The overall number of customers who switched the supplier increased in 2013 by over a half in comparison with the previous year. At the same time it should be noted that the number of customers who exercised their right to switch supplier grew much more in the group of households than in the case of industrial and commercial customers.

Wholesale market

In comparison with 2012, in 2013 the number and structure of electricity sector entities did not change significantly. The biggest share in the production subsector was maintained by PGE Polska Grupa Energetyczna SA capital group (39,3% – decrease from 40,5% in 2012), and in the supply by TAURON Polska Energia SA (13,6% – drop from 13,7% in 2012).

The existence of vertically integrated capital groups results in high concentration on the electricity generation and trade markets. In 2013 the share of three biggest entities in the installed capacities amounted to 55,4% (1,3 percentage point less than the year before), and the share of three biggest entities in terms of volume of energy fed into the grid – 62,6% (1,7 percentage point less than in 2012). Three biggest generation companies (i.e. power generators operating within the capital groups of PGE Polska Grupa Energetyczna SA, TAURON Polska Energia SA and EDF) had at their disposal over a half of installed capacity and $^{2}/_{3}$ of electricity generation in the country. The HHI index, measured with the installed capacity and volume of energy fed into the network (taking into account the amount of electricity delivered directly to the end-users by the generators), dropped in 2013 in comparison with 2012 by 4,1% and 5,0% respectively.

In 2013, similarly to the previous year, the power exchange and sale to the trading companies constituted the main forms of electricity sales applied by generators. Sales on the power exchange amounted to 78,5 TWh (11,7% less than in 2012), while the sales to the energy trading companies – 57,2 TWh (29,7% more than in 2012). Trading companies directed their sales mostly to other trading companies (44,17% of sales), as well as to the end-users (35,61%), and to a lesser extent to the power exchange (11,44%).

In 2013, 59 undertakings held a status of the Polish Power Exchange (POLPX) member, including electricity generators, trading companies and brokerage houses. Eight of them have been POLPX members since 2013. The total volume of transactions concluded on all POLPX electricity markets in 2013 amounted to 176,553 TWh and was by 33,76% higher than the 2012 volume. Sale of electricity with a delivery date in 2013 amounted to 135,909 TWh.

The biggest volume of trade was carried out on the Commodity Forward Instruments Market with Physical Delivery (CFIM). In 2013, 9 993 transactions were concluded on this market (including electricity auctions), with a total volume of 154,299 TWh, which constitutes a 36,70% rise

in comparison with the previous year. The Day-Ahead Market (DAM) noted 1 612 006 transactions with a total volume of 22,201 TWh. This constitutes a rise by 16,21% in comparison with 2013. On the Intra-Day Market 3 238 transactions were concluded, with a total volume of 52 676 MWh (173% increase in comparison with 2012).

Pursuant to Article 23, paragraph 2, point 18, letter b of the Energy Law Act, by 31 March each year the President of ERO calculates and announces the average electricity price on the competitive market for the previous year (i.e. sale of electricity, calculated according to the delivery date, conducted by the generators and trading companies in the competitive segments of the national wholesale electricity market – to the trading companies under bilateral contracts or through the power exchange). In 2013 the average electricity sales price on the competitive market amounted to 181,55 PLN/MWh, which was 9,84% lower than in 2012.

On the basis of Article 49a, paragraph 8 of the Energy Law Act, the President of ERO calculates and announces the average quarterly price of electricity which is not a subject to the obligation prescribed in paragraph 1 and 2 of the Article[5)], within 14 days from the end of the quarter. The value takes into account data from the execution of contracts on electricity sales to trading companies, concluded by energy undertakings involved in electricity generation, which are obliged to sell a part of generated electricity in a way defined in Article 49a, paragraphs 1 and 2 of the Energy Law Act, as well as includes sales of electricity calculated as per delivery date. In the 4th quarter of 2013 this price amounted to 195,84 PLN.

When it comes to electricity prices on POLPX, monthly average value of the IRDN24 index on the Day Ahead Market in December 2013 was over 13% lower than in December 2012. The prices on CFIM decreased as well – by about 14%, i.e. from 177,00 PLN/MWh in 2012 to 152,25 PLN/MWh in 2013.

Retail market

In 2013 five big DSOs, which had their grids connected directly to the transmission grid, were operating on the retail market. They were subject to the unbundling obligation. On the other hand, 153 DSOs were operating within the vertically integrated undertakings. They were not obliged to unbundle the distribution activity and were not directly connected to the transmission network (DSOn).

Similarly to the previous years, the biggest share in the sale of electricity to end-users was held by the "incumbent" suppliers who, after the unbundling of distribution network operators, remained a party to the common service agreements, i.e. agreements containing both provisions of electricity sale agreement and distribution agreement. They perform the function of default suppliers for household consumers who did not decide to switch to a new supplier. In 2013 there were 5 default suppliers operating on the market, over 80 trading companies active in the sales of electricity to end-customers, including suppliers to households, as well as 153 suppliers operating within undertakings vertically integrated with the DSOn.

The demand side of the retail electricity market comprises end-users, whose number amounts to approximately 16,7 million. They are entitled to receive electricity from the chosen supplier in an uninterrupted and reliable manner. 15 million of consumers (over 90%) are the consumers in G tariff group (mostly households). Over 14 million of households purchase electricity for the household consumption. The volume of this purchase is not high and amounts to approx. 24% of the whole volume of electricity supply. The rest of electricity customers belong to A, B and C tariff groups. Groups A and B comprise the so-called industrial consumers (supplied on the high and medium voltage grids), whereas group C includes the commercial consumers (connected to the low voltage grid).

In 2013 over 89 000 consumers from A, B and C groups exercised the right to purchase electricity from the chosen supplier, while in G group their number amounted to 131 000. At the end of the year the growth in TPA customers was 52,6% in comparison with 2012 (39,4% for A, B and C groups and

[5)] Obligation of energy companies involved in electricity generation to sell not less than 15% of electricity generated in a given year on commodity exchanges within the meaning of the Act of 26 October 2000 on commodity exchanges or market organised by an entity operating regulated market in the territory of the Republic of Poland, provided that the companies which have a right to receive funds to cover stranded costs under the Act of 29 June 2007 on coverage of costs incurred by producers in connection with the early termination of long-term contract for sales of power and electricity are obliged to sell generated electricity not covered by the aforesaid obligation in a way ensuring public and equal access to that electricity, by way of an open tender, on the market organised by an entity operating regulated market in the territory of the Republic of Poland or on the commodity exchanges within the meaning of the Act of 26 October 2000 on the commodity exchanges.

63,1% for G group). These data show that consumers on the retail electricity market exercise their rights. Undoubtedly, the ability to take advantage of the list of suppliers operating in the area of the operator to whose grid the customer is connected, which is available on this operator's website and the possibility to compare the prices offered by them single-handedly by using the Energy Price Calculator available on the ERO website, contribute to this situation.

Default suppliers, as well as the suppliers operating within vertically integrated undertakings which are not subject to unbundling obligation, are not obliged to submit, for the approval of the President of ERO, tariff for the electricity supply to consumers other than households.

With regard to household consumers, despite the fulfilment of the most important conditions for the full liberalization of the electricity market contained in the Roadmap of Prices Liberalisation for All Electricity Consumers "Towards consumer rights and effective competition in the energy sector", regulation of electricity prices was maintained. It was due to the need to monitor the functioning of the retail market and protect the interests of the most vulnerable group of consumers. The decision of the President of ERO to release from the obligation to submit tariffs for approval must in fact be based not only on the fulfilment of conditions provided in Article 49 of the Energy Law Act, but also on the proved actual possibility to benefit from the support system by the vulnerable consumers.

In the 4th quarter of 2013, in comparison with the same period in 2012, electricity charges for consumers who did not exercise their right to switch their supplier decreased. The biggest drop in electricity prices was observed in group A – by 9,7%, while the smallest – in the C tariff group – by 0,5%. The reversal of the trend in the electricity prices evolution is worth noting, as until 2013 an increase in prices had been observed. The downward trend results from the change of situation on the energy market, especially from a decline in electricity purchase prices on the wholesale market and a reduction in the purchase price of the so-called green certificates.

Changes in the distribution fees in 2013 were varied, depending on the consumer group. There was a decrease in tariff groups A (by 6,6%) and B (by 0,6%). In other tariff groups charges increased – from 0,7% for household consumer to 1,9% for the C tariff group.

Gas market

In 2013, as a result of the changes introduced into the Transmission Network Code (TNC) and Distribution Network Codes (DNC) it became possible to launch gas exchange and undertake further steps towards the liberalization of gas market.

Wholesale market

The degree of the wholesale gas market development in 2013 was still insufficient. Due to vertically concentrated structure of the wholesale sector, trading (either on the basis of bilateral contacts, or on the gas exchange) represents only 2,9% of the national consumption.

Similarly to 2012, the wholesale trade in natural gas was dominated by PGNiG SA. At the end of December 2013 licences for trade in gaseous fuels were held by 120 entities and 36 energy undertakings actively participated in natural gas trading. A significant part of wholesale trade concerns companies with their own distribution networks and still takes place in the physical points of network. The companies from outside of PGNiG SA involved in the wholesale trade in natural gas gained 8,3 TWh of natural gas (with 56,3% purchased from PGNiG SA).

After the introduction to the Amendment Act (Article 49b) of the obligation of public sale of gas (i.e. the obligation of energy undertakings involved in trade in gaseous fuels to sell a part of the high-methane gas fed into the transmission network in a given year on the commodity exchanges or market organised by an entity operating regulated market in the territory of the Republic of Poland), in 2013 the volume being subject to this obligation was 30% of gas fed into the transmission network by an undertaking involved in natural gas trade. In 2014, the volume has been increased to 40% and from 1 January 2015 it shall be 55%. Ultimately, the solution shall facilitate the creation of wholesale gas market with a high transparency of concluded transactions, allowing entities to have access to gas fuels offered in a transparent manner, based on prices shaped by market mechanisms.

On 20 December 2012, Commodity Forward Instruments Market with Physical Delivery for gas (CFMg) and gas Day-Ahead Market (DAMg) were launched on the gas exchange. In the period between January

and December 2013 contracts concluded on POLPX resulted in delivery of 1 113 042 MWh of gas at an average price of 116,73 PLN/MWh. The volume for which contracts were concluded on the spot market and CFMg amounted to 424 700 MWh and 1 959 790 MWh respectively.

Retail market

The structure of the retail market is still affected by the dominant position held by PGNiG SA Capital Group on the gaseous fuels market. A high level of concentration slows the pace of changes on this market. In 2013, 94,42% of natural gas sale was conducted by PGNiG SA, while the remaining 5,58% – by several dozen other entities active on the market. In 2012 those shares were 95,22% and 4,78% respectively, which is a sign of changes happening gradually on the retail gas market.

In 2013 among all customers of PGNiG Capital Group, the most numerous group was constituted by household consumers, who were supplied both in high-methane and nitrogen gas. They constituted 99,8% of high-methane gas consumers and 95,6% of nitrogen gas consumers. Their share in the total volume of sales amounted to 27,3% and 15,9% respectively. The biggest share in the sale of natural gas by volume was held by the end-users with consumption volume above 25 mcm (35,86%). PGNiG SA sells gas also to the gas system operators who, apart from purchasing gas from PGNiG SA, purchase it also from the foreign suppliers. Sale of gas by PGNiG SA Capital Group was conducted within both tariff and non-tariff systems, although the volume being subject to the approval by the President of ERO amounted to over 13,5 mcm, whereas only 1 mcm was sold in free market transactions.

The companies from outside the PGNiG Capital Group were involved in the re-sale of natural gas purchased in the intra-EU or domestic trade (mostly from PGNiG SA). In total in 2013 those companies sold 721 mcm of gas to 44 920 customers, of which the biggest volume was directed to end-users with consumption from 2,5 to 25 mcm. Industrial customers accounted for 2% of all customers by off-taking 84,66% of the volume of gas sold; the customers from the trade and services sector accounted for 5,08% off-taking 7,79% of the volume, while households representing as much as 92,91% of all customers off-taken only 7,62% of the total volume of sold gas.

In addition to high-methane and nitrogen gas supplied through network, PGNiG SA and other trading companies were involved in the sale of LNG, the total sales volume of which in 2013 amounted to about 31 271 tonnes.

In 2013, the regulation of prices of high-methane and nitrogen gas supplied through gas network to the retail market was still in place, while the prices of LNG and CNG have been exempted from the tariff obligation under Article 49 of the Energy Law Act.

Consumer protection

In order to provide consumers with access to information and strengthen their market position, the Amending Act obliged electricity suppliers to include, in the sales contract and common service agreement, provisions specifying the parties to the sales contract, as well as the provisions containing information on the customer rights, including complaints lodging and dispute settlement, the possibility to obtain assistance in the event of failure, and information about where and how to familiarize yourself with the applicable tariffs, including charges for electricity system maintenance.

At the same time, the President of ERO was obliged to prepare, in cooperation with the President of Office of Competition and Consumer Protection (UOKiK), the Checklist of Consumer Rights – a document containing practical information on consumer rights. In 2013, as a result of the cooperation of the President of ERO and the President of UOKiK, after consultation with the Consumer Federation and the Association of Polish Consumers, and after taking into account the remarks of suppliers associated in the Association of Energy Trading (TOE), alternative suppliers and distribution system operators, two documents were elaborated: the Checklist of Electricity Consumer Rights and the Checklist of Gaseous Fuels Consumer Rights. A copy of the Checklist of Consumer Rights shall be provided by suppliers to each household consumer. This document has also been made available in the Public Information Bulletin of ERO.

Security of supply

In 2013 electricity consumption in Poland amounted to 157 980 GWh and was almost 0,6% higher than consumption in the previous year. The slow pace of change is caused by lingering low level of GDP growth in 2013 (1.6% according to Central Statistical Office of Poland). Average annual power demand amounted to 21 884 MW and increased in 2013 by 0,3% in comparison with the previous year, while the maximum demand fell by over 4,2% and amounted to 24 761 MW. Electricity production on the other hand shaped on the level of 162 501 GWh (1,7% increase in comparison with 2012). Most of the electricity was generated in utility thermal power plants, including those based on hard coal and lignite (89,03%, in 2012 – 90,44%). There was also a further increase in the share of energy generated from renewable sources (hydro, wind and other renewable power plants – an increase from 4% in 2012 to 6% in 2013.).

In reference to the installed and generating capacity of national power plants, no significant change in comparison with 2012 was observed. It shall however be underlined that the installed and generating capacity of thermal power plants fell by 2% with a simultaneous growth of those values by over 30% in the case of renewable energy sources. To sum up, the volume of installed capacity grew by about 1% in comparison with 2012, to the level of 38 406 MW. The average annual generating capacity of the national power plants (calculated on the basis of evening peak of working days) grew from 37 264 MW in 2012 to 37 749 MW in 2013, while the corresponding average annual available capacity fell from 26 712 MW in 2012 to 26 628 MW in 2013. In consequence the relation of available capacity to the generating capacity in 2013 fell in comparison with 2012 from 71,68% to 70,54%.

In 2013, total natural gas consumption in Poland amounted to 14 738,91 mcm. Gas from domestic sources (in the amount of 46,2 TWh) accounted for approximately 24% of the total gas supply of the country. Most of the consumed gas came from abroad – the volume of deliveries amounted in 2013 to 124,9 TWh, comprising imports from the east and the intra-community supply. Import from the east was executed under long-term contract concluded in 1996 between PGNiG SA and OOO Gazprom Export, and the total amount of gas imported under this contract amounted to 97,7 TWh, which accounted for approximately 78,2% of the total gas supply to the territory of Poland. Other gas supplies resulted from the intra-EU delivery (27,2 TWh, i.e. 21,8%).

The total storage capacity at the end of the year amounted to 2 090.99 mcm. Third parties were provided with 371,5 mcm of storage capacity within the long-term contracts, including 256,5 mcm under fixed conditions and 115 mcm under interrupted conditions. In addition, under short-term contracts storage system operator (SSO) provided third-parties with 21,5 mcm of storage capacity under interrupted conditions. SSO did not have any storage capacity exempted from the third-party access. At the end of 2013 the level of gas storages injection amounted to 99,5%. Most of the underground gas storage are the storages in the former gas deposits with a small discharge ability in relation to the working volume.

In 2013, the transmission system operator OGP Gaz-System SA undertook activities which are essential to ensure the security of supply, aimed at:

- minimizing the effects of the implementation of crisis scenarios,
- elimination of bottlenecks in the transmission system in order to improve the flow of natural gas in the network (the development of gas network in Northern Poland),
- building another interconnections between the EU Member States (interconnectors between Poland and the Czech Republic, Poland and Slovakia, Poland and Lithuania),
- increasing transmission capacity on interconnections with transmission systems of the Member States,
- increasing the implementation of market-based measures in case of emergency situations.

3. THE ELECTRICITY MARKET

3.1. Network regulation

3.1.1. Unbundling

TSO

In the territory of the Republic of Poland there is one electricity transmission operator – Polskie Sieci Elektroenergetyczne SA (hereinafter: „PSE SA"), with its registered office in Konstancin-Jeziorna, whose 100% of shares is owned by the State Treasury. PSE SA conducts its activity under full ownership unbundling formula, determined in Article 9, paragraph 1 of the directive 2009/72/EC. The rights attached to the stocks of PSE SA are executed, on behalf of the State Treasury, by the Minister of Economy, according to Article 12a of the Energy Law Act[6)]. PSE SA conducts business activity related to transmission of electricity in the territory of the Republic of Poland. This activity is performed under the licence for transmission of electricity, granted by the President of ERO and valid until 31 December 2030. Pursuant to the decision of the President of ERO, PSE SA was designated the electricity transmission system operator in the territory of the Republic of Poland.

With the Amending Act, the provisions of directive 2009/72/EC regarding obtaining the certification of independence by transmission system operators or combined system operators were transposed into the Polish legal system. Therefore, PSE SA, as the owner of transmission grid, on 10 October 2013 applied to the President of ERO for granting the certification of independence of transmission system operator, i.e. the certification of meeting the independence criteria, referred to in Article $9h^1$, paragraph 1 of the Energy Law Act.

After analysing the application of PSE SA for granting the certification of independence, the President of ERO called the entity for submitting explanations and documents indicated in its letter. PSE SA responded to the summons in the required form and within deadline. The proceeding for granting PSE SA the certification of independence was continued in 2014 and ended on 4 June 2014 with issuing the decision on granting this company the certification of independence, referred to in Article 9d, paragraph 1e of the Energy Law Act, taking into account the comments set out in the positive opinion of the European Commission. The proceeding on granting the above-mentioned certification was conducted according to the rules and procedures stipulated in Article 10 of directive 2009/72/EC and Article 3 of the Regulation (EC) No. 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity and repealing Regulation (EC) No. 1228/2003[7)].

Granting PSE SA the certification of independence provided a basis for issuing the decision of the President of ERO on appointing PSE SA as the transmission system operator until 31 December 2030.

DSOs

The terms and conditions of functioning of system operators as well as their tasks are stipulated in the Energy Law Act. The electricity distribution system operators (DSOs), operating within vertically integrated undertakings and serving more than 100 000 customers connected to their network, are obliged to become independent with regard to their legal structure, organization and decision making (Article 9d of the Energy Law Act).

Pursuant to Article 9d, paragraph 1 and 2 of the Energy Law Act, DSO shall be fully independent from any other types of activity not related to transmission or distribution of electricity. The analysis of those provisions leads to the conclusion that, in particular, energy undertaking involved in network activity is not allowed to hold any rights and shares in undertakings involved in supply or generation. Holding such shares by the network undertaking means that it has direct financial interest in the results of connected supply subsector and, in consequence, its management board loses the ability to

[6)] Journal of Laws of 2012, item 1059, as amended.
[7)] O.J. EU L 09.211.15, hereinafter: „regulation 714/2009".

„act independently". Moreover, according to paragraph 1a of the aforesaid provision, the above-mentioned operators are allowed neither to conduct business activity related to generation or supply of gaseous fuels or electricity, nor to perform it under agreement, for the benefit of other energy undertakings.

At the end of 2013, in the territory of Poland, business activity related to distribution of electricity was performed by 158 DSOs, appointed under the decisions of the President of ERO, including 5 DSOs legally unbundled from former distribution companies and 153 DSOs, which are not subject to legal unbundling obligation (in certain cases the starting date of performing the function of operator was set for the period after 1 January 2014).

The above-mentioned legally unbundled DSOs operate within capital groups, which are vertically integrated energy undertakings. The ownership supervision over those groups is, in principle, exercised by the State Treasury, though over DSOs - indirectly via its holding companies or parent companies from which the distribution activity was unbundled. Only in case of one DSO, the company is owned by the entity whose main shareholders are not related to the State Treasury.

One of the obstacles in controlling the independence of legally unbundled DSOs is that operators remain within the structures of vertically integrated energy undertakings and extended capital groups. Such situation, however, is acceptable in the light of directive 2009/72/EC and the Energy Law Act.

The Energy Law Act stipulates that if the transmission system operator or distribution system operator does not comply with conditions and criteria of independence, the operator is subject to fine, so is the entity which does not ensure the conditions for meeting the independence criteria by the company designated as an operator on the entity's network. In the aforesaid cases the fine cannot be lower than 1% and higher than 15% of the income of penalized company, earned in the previous tax year. In the aforesaid cases, fines are imposed by the President of ERO. Notwithstanding the above-mentioned fines, the President of ERO may also impose fine on the head of energy company, in the amount not exceeding 300% of monthly remuneration.

Compliance Programmes

Approving Compliance Programmes (in a form of decision) is one of the tasks of the President of ERO. In those Programmes distribution system operators specify the actions that should be taken to ensure non-discriminatory treatment of all system users, including detailed obligations of DSO's employees resulting from those Programmes. This tool provides the President of ERO with the possibility of influencing, to some extent, the content and the way of implementation and execution of those Programmes.

The amendment to the Energy Law Act introduced some significant changes in relation to the entities obliged to develop Compliance Programme. The existing obligation of TSO to prepare Compliance Programme was abolished, as the ownership unbundling of TSO (PSE SA is a company which does not belong to vertically integrated company and which is fully owned by the State Treasury) turned to be sufficient to ensure non-discriminatory treatment of all system users.

Moreover, in order to strengthen the role of Compliance Officer, this position was included in the Amending Act. According to Article 5 of this Act, Compliance Officer is designated by the operator to monitor the execution of Compliance Programme and should act independently, as well as should be provided with the access to information possessed by the operator and related entities, which are necessary for performance of Compliance Officer's duties. On the other hand, according to Article 5a of the Energy Law Act, it is Compliance Officer (and not the DSO's management board as it was previously stipulated) who is obliged to submit to the President of ERO a yearly report on the execution of Compliance Programme.

According to the „Framework guidelines on the content of Compliance Programmes prepared by distribution system operators (DSOs) and transmission system operators (TSO)", published on the ERO website, the yearly report on the Programme's execution should include information resulting from regular monitoring, in particular:

- the list of the incidents of violation of Compliance Programme,
- information about complaints and suggestions regarding Compliance Programme,
- actions undertaken as part of Compliance Programme,
- measures undertaken to protect sensitive information.

All Compliance Officers, who are legally obliged to submit to the President of ERO the reports on Compliance Programmes' execution, fulfilled this obligation for 2013 and met the legal deadline (end of 1st quarter of 2014).

In one of the submitted reports, the operator described the explanatory proceeding on Compliance Programme violation, with regard to the section describing DSO's staff obligation to ensure equal treatment of all system users. After collecting supplementary evidence, in March 2013 the President of ERO initiated the administrative proceeding regarding imposing fine due to preferential treatment of the default supplier belonging to the same capital group as DSO. The administrative proceeding was completed in October 2013 and resulted in imposing a fine on the DSO. Due to that fact, Compliance Officer conducted far-reaching information campaign directed to DSO and its subsidiaries in order to remind them of issues covered by the Programme. Moreover, number of actions were undertaken to improve information published on the DSO website regarding communication channels for DSO clients. Except for the aforesaid case, there were no other violations of Compliance Programmes. In case of another DSO, there was suspicion of Programme violation with regard to consultations between the DSO employees and supplier from the same capital group on selecting the type of smart meters to be used in the future within the DSO operational area. However, in the course of explanatory proceeding carried out by the President of ERO, no violations were found. At the same time, the President of ERO recommended changing the way of DSO's communication with suppliers in order to minimize the risk of future discriminatory behaviours towards system users.

Except for one unjustified complaint recorded in case of one operator, there were no other complaints among particular DSOs, as well as proposals or comments related to the Programmes.

Basing on the analysis of the reports submitted by DSOs it can be stated that, considering the specifics of the position and the scope of competences, Compliance Officer should be independent and should be separated from other positions in a given company. This would allow for greater commitment regarding following Compliance Programmes and would constitute a good practice among operators. In reality, only in case of one operator the position of Compliance Officer was not combined with other tasks performed within the company. As for other operators, those positions were combined with other junior level or even senior level positions, which was negatively evaluated by the Regulator.

Compliance Officers instructed all operators' staff on strict compliance with Programmes' provisions.

All operators systematically improve the standards of procedures as well as templates of agreements and applications for distribution service, connection to the grid and supplier switching. Those changes should be recognised as positive because the standardization leads to non-discriminatory treatment of all system users. The same positive recognition should be given to the fact that all operators published Programmes on their websites. Compliance Programmes should be available not only to operators' employees but also to any concerned electricity market player. Thanks to that, any market participant would have a possibility to check if operators comply with the rules of non-discriminatory treatment of all distribution system users.

Moreover, the submitted reports showed that there is similar policy among DSOs in relation to sensitive data protection, performed by providing separate access to individual IT systems. Individual employees, dependent on the scope of their competences, are granted with individual access rights to the above-mentioned data. Data protection system implemented by particular DSOs should be assessed as appropriate, because in 2013 there was only one incident, caused by the error in IT system used by the DSO in supplier switching process, resulting in a situation when negative outcome of verification of applications for supplier switching was directed to wrong supplier. The error was removed immediately, together with withdrawal of submitted documents.

Pursuant to the obligation determined in the Energy Law Act, reports were published in Industry Bulletin of ERO and on the ERO website.

3.1.2. Technical functioning

Balancing services

In Poland rules of electricity system balancing are described in Transmission Network Code (TNC) of PSE SA, in the section „System balancing and congestion management" and in Distribution Network

Codes (DNC). Those Network Codes are approved by the President of ERO. The rules of balancing in distribution grids must take into account the principles determined in TNC. The President of ERO, in the scope of his competences stipulated in the law, monitors the activity of system operators, including balancing.

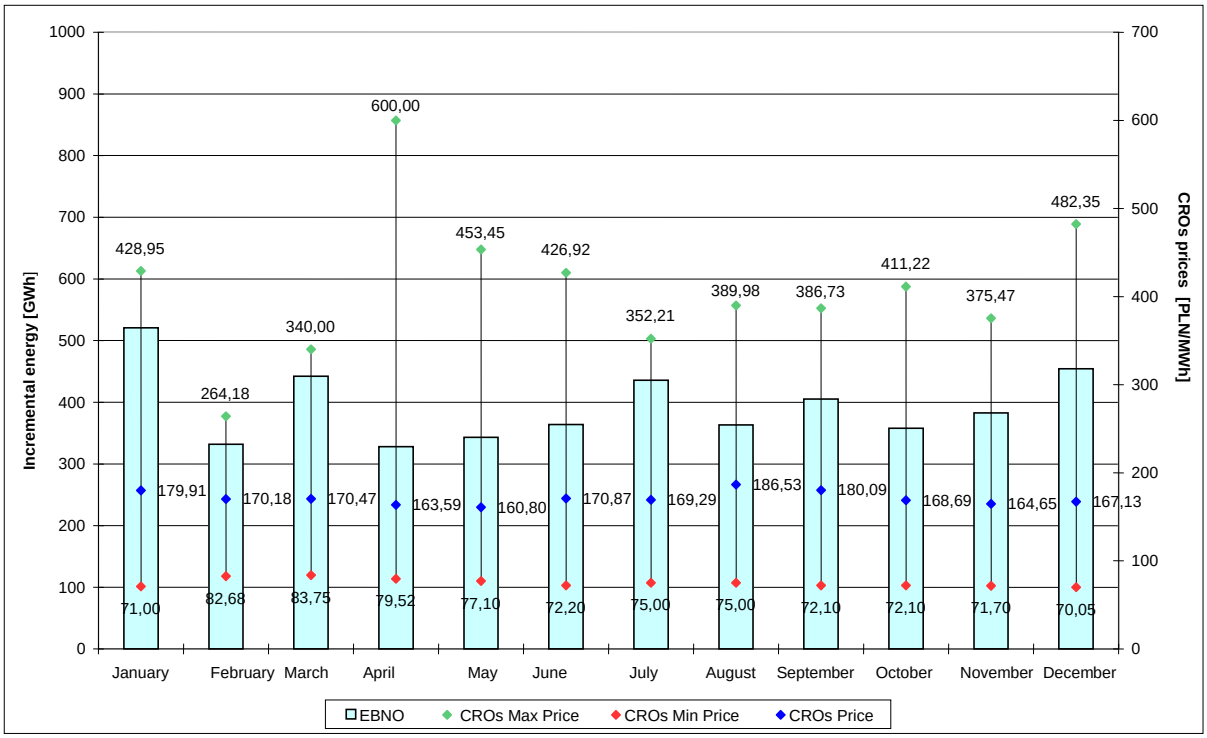
The most important changes in balancing rules, stipulated in TNC in 2013, were:

- introduction of the mechanism for informing the power exchange about changing the Market Operator for a given Balance Responsible Party (BRP),
- providing the possibility to submit offers on balancing market by consumers (Demand Side Response),
- adjusting financial security rules concerning settlements on balancing market by introducing minimum level of security, linking the level of this security to risk assessment and extending the validity period of security until the settlements on balancing market are completed,
- providing the possibility to extend the deadline for submitting notifications of sales contracts on day-ahead market, and balancing offers on balancing market, in the case of breakdown of TSO's IT system and delay in completion of cross-border capacity allocation process (market coupling) by power exchanges,
- adjusting the method of determining and buying the operating reserves on balancing market by TSO,
- introduction of additional dates for publication of data on forecasted settlement prices on balancing market by TSO, i.e. at the stage of planning the national electricity system operation in day *n-1*, in case when demand is higher by more than 5% than demand assumed in the previous system operation plan.

Except for the aforesaid changes, the balancing market operated under the same rules as in the previous year. In particular, according to those rules, market participants submit technical and commercial data (electricity sales contracts – ESC, and balancing offers) to the transmission system operator on the domestic market, from 9.00 a.m. to 2.30 p.m. one day before supply delivery date. After the gate closure, TSO verifies notifications and informs Market Operators about acceptance, acceptance with changes, rejection or lack of notifications (until 3.30 p.m. on day *n-1*). ESCs for commercial day *n* on the Intra-day Market (IDM) are notified from 3.30 p.m. on day *n*-1 to 10.00 p.m. on the day *n*. At the moment of gate opening for ESC nominations for day *n*, i.e. at 3.30 p.m. on the day *n*-1, as well as in the moment of gate closure, i.e. at 10.00 p.m. on the day *n*, notifications may be submitted to the TSO. Notifications of ESC within IDM concern a given period of particular commercial day, covering uninterrupted sequence of hours from a given hour of commercial day to the last hour of commercial day. For cross-border exchange, the transmission capacities for annual and monthly auctions are notified from noon to 5.00 p.m. two days prior to the supply delivery date, and for daily auctions – from 10.30 a.m. to 1.30 p.m. one day prior to the supply delivery date. In the case of cross-border exchange between the Polish electricity system and the electricity systems of Germany, Czech Republic and Slovakia, intra-day congestion management mechanism is also in place. Under this mechanism booking of transmission capacities is equivalent to their nomination. ESC may be notified from 3.30 p.m. on the day preceding the supply delivery date to 10.00 p.m. on the contract execution day, assuming that the notifications are made at least one hour in advance. Cross-border exchange on the SwePol Link is carried out under market coupling mechanism. Market participants submit electricity sale and purchase offers on POLPX until 11.30 a.m. The clearing price is published after its determination in cooperation with Nord Pool Spot AS, but not later than the gate time closure for day-ahead market. The contracts are executed after their notification to TSO.

Figure 1 shows information on volume of balancing energy purchased on balancing market and settlement prices for this energy.

Figure 1. Trade volume (EBNO) and electricity prices in the balancing market (CROs) in 2013



Source: ERO based on the data provided by PSE SA.

In 2013 the volume of energy purchased on balancing market (EBNO) decreased in comparison with 2012, from 6,55 TWh to 4,73 TWh, i.e. by 28%. At the end of 2013, 123 entities participated in the balancing market processes, including 17 generators, 7 end-users, 7 network customers, 82 trading companies, 2 power exchanges, 7 DSOs and PSE SA as the TSO. Technical and commercial data were submitted by 45 market operators.

In reference to balancing in distribution grid it should be underlined, that the role of distribution system operators is limited to the actions related to management of measurement data. These rules are stipulated in distribution network codes and they influence mostly the execution of TPA principle. Moreover, distribution system operators are obliged to undertake actions at the request of TSO, according to the rules determined by the TSO in the transmission network code.

Security and reliability standards, quality of service and supply

The President of ERO is responsible for monitoring the electricity system functioning, e.g. in the scope of security of electricity supply[8)]. This task was stipulated in general way and does not cover all activities referred to in Article 4 of directive 2009/72/EC.

With regard to security and reliability of grid operation, the President of ERO reviews the actions undertaken by electricity system operators as part of fulfilling their statutory tasks, and evaluates them in the context of ensuring proper network operation, having in mind criteria determined by operators in the network codes. In the scope of conducted activities, the President of ERO evaluates the ability to cover peak electricity and capacity demand in electricity system, as well as the level of

[8)] The concept of electricity supply is not consistent with the definition of electricity supply in the context of security of electricity supply. The assessment of security of electricity supply is performed by the President of ERO in the report prepared by the Regulator, which is submitted to the minister in charge of economy annually. This assessment concerns only the issues which fall within the President of ERO's competences stipulated in the Energy Law Act. It should be underlined that this scope does not cover the forecasts for balancing electricity consumption and demand in the next five years, as well as the possibility of balancing the supply in a period from five to at least fifteen years, counting from the report preparation date (according to Article 4 of directive 2009/72/EC). Such forecast is presented by the minister in charge of economy in the report prepared and submitted to the European Commission every two years.

necessary capacity reserves in the electricity system. These tasks are performed *ex post* and concern evaluation of operational security of electricity system in the context of fulfilling tasks by electricity system operators. The evaluation is submitted each year to the minister in charge of economy.

Detailed information on analyses of electricity system functioning in terms of available capacities of domestic power plants, capacity reserves and losses in relation to peak demand, are described in point 3.3.1 of this Report.

Monitoring time taken to connect and repair

Energy companies performing transmission or distribution services (TSO, DSOs) are obliged to provide customers with electricity supply of adequate quality, minimizing incurred costs and expenditures. One of the Regulator's tasks is to control, at customer's request, if the network company meets the quality standards of customer service and quality parameters of electricity, as referred to in the Energy Law Act.

Annual inspection of quality of electricity supplied to customers, conducted with regard to continuity of electricity supply (indicators) and influence of extreme and unfavourable weather conditions, allows for assessing if the quality parameters of electricity supply are met by TSO and five biggest DSOs, whose operation area covers whole country. Focusing on quality indicators, which are measurable and which may be influenced by the energy companies, allows the President of ERO for more efficient annual control of maintaining the quality standards of electricity supplied to end-users within whole country by the network companies.

Properly defined and determined level of quality of supply may constitute a basis for conducting comparative analyses of network companies, as well as setting the quality level of electricity supplied to customers in Poland in relation to the levels observed in other countries. Moreover, the publication, by individual network companies, of reliable information on quality of electricity supplied to customers within the area of their operation, is one of the tools of quality regulation and may be a first step towards implementation of more advanced method of addressing this issue.

Currently, pursuant to the provisions of law, the transmission system operator and distribution system operators publish on their websites information on continuity of electricity supply, using SAIDI and SAIFI indicators for planned and unplanned long interruptions, taking into account the extreme unfavourable weather conditions, as well as MAIFI index for momentary interruptions.

After verification of indicators published by DSOs for 2012, due to irregularities and differences in the calculation method resulting from different interpretation of law, guidelines were introduced in order to standardize the methodology for collecting data and their verification as well as a method of calculating indicators by DSOs. Implementation of quality regulation requires application of comparative indicators.

Monitoring safeguard measures

The rules, according to which emergency actions are undertaken by operators in the situation of threat to the security of electricity supply, such as introduction of limitations to electricity offtake and supply, are described in detail in the network codes, prepared by the electricity system operators. Those rules are subject to the President of ERO's approval before entering into force.

At the same time, in case of situations justifying undertaking of emergency actions, TSO is obliged to prepare a report describing the actions undertaken as well as their effects. This report is subject to evaluation by the President of ERO, and is later submitted to the Minister of Economy. After applying all available measures to ensure proper functioning of electricity system and exercising due care by the transmission system operator, distribution system operators or combined system operator in cooperation with other interested entities, the Council of Ministers at the request of the minister in charge of economy may introduce, by means of a regulation for fixed period, restrictions in electricity consumption and supply in the territory of the Republic of Poland or its part. It should be noted that in 2013 the above mentioned actions were not undertaken.

According to the Energy Law Act, the Minister of Economy is the authority responsible for notifying the European Commission about extraordinary actions that were undertaken.

Renewable energy sources: connection, access, dispatching and balancing

Pursuant to the Energy Law Act, half of a fee is charged for connecting renewable energy sources (RES) with installed capacity not exceeding 5 MW to the grid. The fee is calculated on the basis of actual costs of the connection. Such sources, as well as cogeneration units with installed capacity below 1 MW, are given preferential treatment, because in case of all other types of generation sources a fee determined on the basis of total costs of connection is charged. Moreover, micro-installations (generation sources with total installed electricity capacity not higher than 40 kW or total installed heat capacity not exceeding 120 kW) are also granted preferential treatment, as there are no fees for connecting those sources to the grid.

If the energy company refuses to conclude an agreement on connection to the grid, it is obliged to immediately inform about that fact both the President of ERO and the entity concerned, stating the reasons for refusal. In case when the refusal results from the lack of economic conditions for connecting to the grid, the network company and the entity requesting the connection may agree on the amount of connection fee.

Moreover, the default supplier is obliged to buy electricity offered by generators, produced in the renewable sources, connected to the distribution or transmission grid within the operational area of this supplier. That electricity is purchased at the average electricity price on the competitive market in the preceding calendar year, which is published annually by the President of ERO.

Currently binding rules of market functioning give preferential access to the grid to electricity generated in RES. In particular, according to Article 9c, paragraph 6 of the Energy Law Act, the electricity system operator, within the area of its operation, is obliged to provide all entities with priority transmission or distribution of electricity generated in renewable sources or highly-efficient cogeneration, while ensuring reliability and security of national electricity system. At the same time it should be underlined that in case of centrally dispatched generation units[9)], whose working schedules are determined by the electricity transmission system operator within central planning of those units' operation, the procedures described in the transmission network code are applied, which do not directly give priority to renewable energy sources. The reliability and security of electricity system are main criteria of selecting generation units for operation in electricity system. It concerns, in particular, generating units, in which the conventional fuels are co-fired with fuels classified as renewable energy sources (e.g. biomass).

As far as responsibility for RES balancing is concerned, it should be stated that the provisions of law do not give any special (different) rights for those sources. Renewable sources are subject to the same balancing rules as other energy sources, with respect to submitting both working schedules and contracts on selling electricity to electricity system operators, and with regard to settlements for imbalance.

3.1.3. Network Tariffs for Connection and Access

Tariffs for distribution or transmission of electricity are determined by licensed energy undertakings, in compliance with rules set forth in the Energy Law Act and the Regulation of the Minister of Economy on the detailed rules for setting and calculating tariffs and financial settlements in electricity trading[10)]. Energy undertakings submit tariffs to the President of ERO for approval on their own initiative or at the request of the Regulator.

Regulator approves and controls application of electricity tariffs in the scope of their compliance with rules determined in Articles 44, 45 and 46 of the Energy Law Act, as well as analyses and verifies costs assumed by the energy undertakings as justified in the calculation of prices and rates.

[9)] According to Article 2, point 4 of the Regulation of the Minister of Economy of 4 May 2007 on detailed conditions for electricity system functioning (Journal of Laws No. 93, item 623, as amended), centrally dispatched generation unit (CDGU) means the „generation unit:

a) connected to the electricity transmission grid, or
b) being a condensing unit with generating capacity not exceeding 100 MW, connected to the coordinated 110 kV grid, or
c) connected to the coordinated 110 kV grid other than described in point b, which is dispatched by the electricity transmission system operator under separate agreements concluded between generator and electricity distribution system operator, to whose grid the unit is connected".

[10)] Journal of Laws of 2013, item 1200, hereinafter: „tariff regulation".

In case of documented change in external conditions of conducting business activity by the energy undertaking, the Regulator may determine ex-officio in a form of administrative decision the correction coefficients resulting from changes in external conditions, which must be applied by the energy undertaking with respect to prices and rates determined in a tariff until a new tariffs enters into force.

When the tariff's application period expires, until the new tariff enters into force, the energy undertaking applies current tariff, if the relevant decision of the President of ERO has not been issued or there is ongoing appeal proceeding against the President of ERO's decision.

The decisions on approving electricity tariffs are issued under Article 104 of the Act of 14 June 1960 on the Code of Administrative Proceedings[11)], Article 47, paragraph 1 and 2 and Article 23, paragraph 2 and 3 of the Energy Law Act. Those decisions may be appealed against to the District Court in Warsaw - the Court of Competition and Consumer Protection, through the President of ERO, within two weeks from the date of decisions' delivery[12)].

Each year the process of approving tariffs of distribution system operators is preceded by the publication of „The principles for calculating tariffs of DSOs" by the Regulator. This document contains guidelines for tariff calculation to be used when determining justified level of regulated revenue of energy undertakings. Those principles are published in advance to allow DSOs to set tariff calculated on their basis, and to ensure that Regulator will approve and publish the tariff in time allowing for tariff application with the beginning of the calendar year.

In 2013 the President of ERO approved electricity tariffs of:

1) transmission system operator (TSO) – for entities using transmission services under transmission contract,
2) distribution system operators (DSOs) unbundled on 1 July 2007 - for consumers connected to the distribution grid on all voltage levels, i.e. industrial consumers, small and medium-sized enterprises and household consumers,
3) electricity trading companies – in relation to consumers from G tariff group (households), connected to the grid of given distribution system operator, provided with complex service by trading company,
4) other energy companies, so-called industrial companies, with regard to electricity trading (G tariff group) and electricity distribution to consumers connected to those companies' grids.

In case of companies supplying electricity to household consumers (G tariff group), in December 2012 the validity period of tariffs approved in 2011 was extended by the President of ERO until 30 June 2013. Afterwards, in June 2013 electricity tariffs of four trading companies were approved for a period from 1 July 2013 to 31 December 2013. The process of approving tariffs for 2014 started in November 2013. As a result of conducted proceedings, in December 2013 the President of ERO approved tariffs for a period until 31 December 2014.

The guidelines for calculation of DSOs tariff in 2014 were included in the document „DSOs TARIFFS FOR 2014 (with respect to DSOs unbundled as of 1 July 2007)", published on the ERO website.

When preparing for the tariffication process in 2013, the President of ERO decided to continue the approach applied in 2011 during the tariffication process for 2012. Hence, the tariffs applicable in 2014 are the third tariffs approved within the 4-year regulatory period of 2012-2015.

During the process of approving tariffs for 2014, the level of justified costs was determined for each DSO on the basis of correction coefficients, resulting from the decisions issued by the President of ERO in 2012 on setting the correction coefficients determining planned improvement in DSO's performance in subsequent years of 2012-2015 regulatory period. Those decisions took into account the results of assessment of DSO performance in terms of operational costs, conducted in 2010−2011. When determining the justified level of network losses, the results of the assessment of DSO performance were also used.

In the tariffication process carried out in 2013, the methodology for determining weighted average cost of capital was applied, which was introduced in the tariffication process in 2010 for the period 2011-2015. As it was previously announced, certain parameters for determining WACC were updated, including the level of risk-free rate. The methodology for determining other costs affecting the level of

[11)] Journal of Laws of 2013. item 267, hereinafter: „Administrative Proceeding Code".

[12)] Article 30, paragraph 2 and 3 of the Energy Law Act and Article 479^{46}, point 1 and Article 479^{47}, paragraph 1 of the Civil Proceeding Code.

regulated revenue of each distribution system operator was set forth in the above-mentioned document „DSOs TARIFFS FOR 2014 (with respect to DSOs unbundled as of 1 July 2007)".

The process of approving distribution tariffs for 2014 started in November 2013 and was carried out for five biggest DSOs. On 17 December 2013 the President of ERO approved tariffs of distribution system operators for a period until 31 December 2014.

In case of the transmission system operator (TSO), the tariffication process carried out in 2013 continued to be based on the „cost of service" regulation. In this case it is not possible to apply comparative methods as there are no other undertakings acting under similar conditions (there is only one TSO in Poland). In August 2013 the President of ERO requested TSO to submit the application for approving tariff for 2014 for business activity conducted by the company. The application was prepared according to the multi-year tariff methodology approved by the President of ERO, and a decision on determining correction coefficients for planned improvement of the company's performance in subsequent years of 2012-2015 regulatory period. Over next months of tariffication process, not only selected categories of costs were analysed, but also volume of energy and capacity which formed a basis for transmission fee rates' calculation. The proceeding on approving the tariff for 2014 ended with the decision of the President of ERO, issued on 17 December 2013.

One of the issues addressed in the DSOs' tariffs approved by the President of ERO is connection to the distribution grid. The tariffs include connection groups, rates for low-voltage connection (divided by overhead lines and cable connectors), methods for determining fees for connection on medium and high-voltage level, as well as rules for connection of sources cooperating with the grid, and grids of energy undertakings involved in distribution of electricity.

Moreover, the DSOs' tariffs also include charges for services ordered additionally by the customer. Those charges relate e.g. to discontinuation or resumption of electricity supply, verification of operation of measuring and billing system, laboratory control of functioning of measuring and billing system, conducting additional expertise of previously tested measuring and billing system, relocating the meter or meter and controller (zone meter) to another location within the facility, prepared and appropriately equipped in advance. The revenues from fees for activities carried out on additional customer's order stipulated in the tariff are provided each year by the DSO in the reports on distribution activity. Income from those charges, which is to be included in the tariff, reduces the regulated revenue constituting a basis for calculation of distribution rates.

Prevention of cross-subsidies

On 1 July 2007 distribution system operators were separated from 14 vertically integrated companies, i.e. electricity distribution and trading were unbundled.

Apart from 14 biggest DSOs, 14 electricity suppliers started operating on the market. Currently, after consolidation process, there are 5 DSOs and 5 trading companies acting as default suppliers. They are independent entities.

In case of other energy undertakings, i.e. so-called industrial undertakings, electricity tariffs cover their whole network activity (all customers connected to the undertaking's grid), while the tariffs for trading activity refer only to the consumers from G tariff group (households), as the President of ERO released energy undertakings from the obligation to submit tariffs for approval with regard to customers other than customers in G tariff group.

Tariff calculation of aforesaid undertakings is based on clear rules, which are intended to eliminate cross-subsidizing between distribution and trading activities.

3.1.4. Cross-border issues

Access to the cross-border infrastructure, including the procedures for the allocation of capacity and congestion management

The rules of cross-border capacity allocation between Poland, Germany, Czech Republic and Slovakia did not change in 2013. The capacity was allocated through coordinated explicit auctions among eight TSOs from seven CEE countries. The auctions for transmission capacity were organized

and conducted by the Central Allocation Office (CAO), with the registered office in Friesing (Germany). The congestion management procedure and capacity allocation method were carried out according to the document „The rules for coordinated auctions of transmission capacity in the Central-East Europe in 2013", published on the CAO website. The rules are agreed by all TSOs of the CEE region for every calendar year, and afterwards consulted with market participants and national regulators of the CEE region. The amount of transmission capacity which is made available through coordinated auctions, is calculated by the transmission system operators of particular countries, according to specified rules. Polish transmission system operator applies mechanism of calculating cross-border capacity which was approved by the President of ERO in the decision of 23 July 2010.

Due to high demand for transmission capacity on synchronous interconnections of NES, which exceeds existing technical capacities, the congestion has a structural nature. The capacity allocation was carried out on the basis of submitted offers, through optimization, as a result of which the set of accepted offers of market participants was determined, with specified volumes of allocated capacity and bidding prices for each of transmission directions.

In 2013 there was also intra-day capacity allocation on synchronous interconnections. This allocation was conducted within coordinated process, in which, except for PSE SA, five TSOs from CEE region participated, i.e. 50Hertz Transmission GmbH, ČEPS, a.s., SEPS, a.s., Austrian Power Grid AG and TenneT TSO GmbH. This process was coordinated by Czech TSO – ČEPS, a.s., acting as the Capacity Allocation Office. Within intra-day market, transmission capacities were made available by PSE SA on the technical profile covering the interconnections with 50Hertz Transmission GmbH, ČEPS, a.s. and SEPS, a.s. The rules of cooperation between PSE SA as the TSO and Capacity Allocation Office were stipulated in multilateral agreement „Agreement on intraday cross-border transmission capacity allocation and nomination", concluded between Capacity Allocation Office and the above-mentioned TSOs. Under this agreement, the Capacity Allocation Office, on behalf of PSE SA, allocates transmission capacities to interested entities on the intra-day market. The rules of congestion management and capacity allocation were set forth in document „Intraday Capacity Allocation and Nomination Procedure – The Trader Guide".

The congestion on the direct current Poland-Sweden interconnection SwePol Link is managed through market coupling mechanism, via implicit auctions. Transmission capacities have been allocated on the market-based principles since 16 December 2010. The interconnection's capacity is allocated by power exchanges (POLPX and Nord Pool Spot) for individual hours of a next day (day ahead). Market coupling mechanism allows for more efficient use of interconnectors, as the electricity always flows from lower price zone to higher price zone. Transmission system operators from Poland and Sweden made their capacity available and also accepted and nominated the schedules submitted by power exchanges, while guaranteeing allocated capacity.

The rules of transmission capacity allocation on Poland-Sweden cable as well as respective settlement rules were stipulated in the quadrilateral Market Coupling Agreement, signed by power exchanges (POLPX and Nordpool Spot AS) and transmission system operators from Poland and Sweden (PSE SA and Affärsverket Svenska Kraftnät).

With regard to interconnections with third countries, Poland has one active interconnector with Ukrainian electricity system. It is a single-track 220 kV line between Zamość and Dobrotvir, connecting dedicated generation units of Dobrotvir power plant to synchronous operation with NES. The available transmission capacities are allocated to market participants through monthly explicit auctions. These are un-coordinated auctions (unilateral). The capacities are made available from Ukraine to Poland. The capacity allocation mechanisms were set forth in document „The rules for auctions of transmission capacity on the PSE Operator SA and NEK Ukrenergo cross-border interconnection in 2013". These rules were assessed by the President of ERO. Regulator decided that they are not contradictory to the provisions of the Regulation of the Minister of Economy of 4 May 2007 on detailed conditions for electricity system functioning. Pursuant to this regulation, TSO ensures access to available transmission capacities of the interconnections, under conditions agreed with TSOs from neighbouring countries, using non-discriminatory and transparent mechanism of capacity allocation. Therefore, the President of ERO did not oppose the application of those rules in the transitional period, until the capacity allocation mechanisms compliant with the requirements stipulated in regulation 714/2009 are determined and implemented. Every change in capacity allocation rules is consulted with the President of ERO.

Pilot project concerning the implementation of virtual phase shifters on Polish-German border and the issue of unplanned electricity flows

The issue of increasing unplanned power flows in electricity systems, often described as loop flows, is no longer a problem of individual countries but it has become a question discussed increasingly on European level. The significant growth of those flows' intensity was caused directly by the dynamic development of wind energy sources in Europe and insufficient expansion of electricity network. The direct effect of the increase in unplanned electricity flows affecting mainly the electricity systems in Poland and the Czech Republic are network overloads and, in extreme cases, exceeding the security criteria for grid operation. Another effect is a limitation to cross-border exchange of electricity and related barriers to the process of energy markets integration.

Similarly to 2012, also in 2013 the aforesaid problem appeared on the agenda of many European forums, including the European Commission. Moreover, practical actions were undertaken in order to counteract the negative effects of unplanned electricity flows and to solve that problem in long-term horizon.

The loss of a part of social welfare due to the limitations to cross-border transmission capacity caused by loop flows may be compensated, both in relation to welfare loss and to cross-border capacity reduction, by TSOs. Counteracting the transmission capacity limitations may be carried out through ensuring transmission capacity for cross-border transactions. While analysing this issue, the non-discriminatory treatment of internal and external transactions should be taken into account.

On 18 December 2012 PSE SA and German transmission system operator 50Hertz Transmission GmbH signed the "Letter of Intent on the installation of phase shift transformers". In this document the parties expressed they intention to install phase shift transformers on the Polish-German interconnections. Moreover, PSE SA and 50Hertz Transmission GmbH signed the Agreement on virtual Phase Shift Transformer (vPST) – Pilot Phase. According to the vPST mechanism, in the situation when the power flows exceed the determined level on the Polish-German profile and the security of Polish electricity system is violated, 50Hertz Transmission GmbH shall immediately, and at its own costs, undertake actions aimed at eliminating the threat to secure grid operation and reducing the volume of flows to the level determined in the agreement. The pilot project on virtual phase shifting transformers on Polish-German border was carried out from 8 January to 30 April 2013. The project was focused mainly on re-dispatching issues and validity of physical phase shifters' installation on interconnectors. The vPST mechanism turned out to be a useful tool for counteracting unplanned power flows. However, the pilot phase showed that the solution basing only on countermeasures in the form of cross-border re-dispatching may be insufficient - countermeasures are not unlimited and may be exhausted.

After completing the pilot phase of vPST project, the negotiations with German operator regarding the so-called operational agreement (pPST) started. The agreement included the issues related to installation and use of phase shifting transformers. The agreement was signed on 28 February 2014.

Moreover, in order to complete the project, on 29 January 2013 PSE launched the sectoral procurement, conducted in a form of negotiations with announcement for delivery and installation of phase shifters on interconnectors between Polish and German electricity systems. The procurement has not been finished in 2013.

Monitoring the use of revenues for interconnectors

According to Article 23, paragraph 2, point 11 of the Energy Law Act, the President of ERO is responsible for controlling if the electricity transmission system operator or combined system operator and other market participants fulfil their duties resulting from regulation 714/2009, as well as for fulfilling other Regulator's duties arising from this obligation.

Pursuant to point 6.5. of the „Guidelines on the management and allocation of available transfer capacity of interconnections between national systems" (hereinafter: „Guidelines"), included in the annex to regulation 714/2009, by 31 July each year, the regulatory authorities shall publish a report setting out the amount of revenue collected in the 12-month period up to 30 June of the same year and the way this revenue was spent, together with verification if that use complies with the regulation and above mentioned guidelines, and if the total amount of congestion income is allocated to one or more of the three prescribed purposes, referred to in Article 16, paragraph 6 of this regulation.

The President of ERO published, on the ERO website, Information No. 22/2013 of 30 July 2013 on how transmission system operator used the revenues obtained from the allocation of interconnection capacity in the period from 1 July 2012 to 30 June 2013. According to Article 16, paragraph 6 of regulation 714/2009, any revenues resulting from the allocation of interconnection shall be used for the following purposes:

1) guaranteeing the actual availability of the allocated capacity (as referred to in Article 16, paragraph 6, letter a of regulation 714/2009); or
2) maintaining or increasing interconnection capacities through network investments, in particular in new interconnectors (as stated in Article 16, paragraph 6, letter b of regulation 714/2009).

If the revenues cannot be efficiently used for the purposes specified in points 1) or 2) above, then they may be used, subject to approval by the regulatory authority and up to a maximum amount determined by this authority, as income taken into account by the Regulator when approving the methodology for calculating or setting network tariffs. The remaining part of revenues shall be transferred to a separate internal account until the time it can be spent on the aforesaid purposes.

According to the principles of transmission fee rates calculation of the PSE SA Tariff for 2013, approved with a decision of the President of ERO of 17 December 2012, the part of justified costs of company's activity related to cross-border exchange had not been included in the calculation of transmission fee rates in aforesaid PSE SA Tariff for 2013, and the President of ERO indicated in its summons directed to PSE SA that those costs should be covered by the revenues obtained from cross-border capacity allocation. Those costs are the following:

- the costs of organizing coordinated auctions for cross-border capacities,
- the costs of cross-border exchange balancing,
- the costs related to the participation of PSE SA in the Inter-TSO compensation mechanism (ITC), which would be covered by the revenues resulting from participation in this mechanism and by the revenues collected from market fees.

Due to the specificity of ITC process, the settlements are made in delay and part of the revenues/costs for 2013 would be recorded in books later (as costs of 2013 or costs of 2014). The justified costs of company's transmission activity related to cross-border exchange (costs of organizing coordinated auction of cross-border capacities and costs of cross-border balancing), which were not included in the transmission fee rates calculation in PSE SA Tariff for 2013 (as they should be covered by the revenues resulting from cross-border capacity allocation), were fully covered by the revenues from ITC-related settlements, which were booked in 2013 and took into account the revenues from market fees. Thus, the entire value of income obtained from cross-border capacity allocation in the period from 1 January to 31 December 2013 (determined on the basis of the sum of revenues obtained from cross-border capacities allocation on synchronous profile and on the Poland-Sweden DC link), calculated in line with biding accounting regulations, will be transferred to Earmarked Fund. This fund was established with a resolution of the PSE SA Management Board of 25 May 2006 on the adoption of the Earmarked Fund Rules. On the basis of the Management Board's request, the Ordinary General Meeting of Shareholders would adopt appropriate resolution on the distribution of net profit for 2013. The part of this profit, calculated according to the above-mentioned rules, would be transferred to Earmarked Fund. PSE SA would allocate income resulting from cross-border capacity allocation to purposes referred to in Article 16, paragraph 6, letter b of regulation 714/2009, i.e. on the maintaining or increasing interconnection capacities through network investments. This would mainly concern the implementation of investments in new interconnectors (i.e. interconnection lines and necessary investments in domestic infrastructure), determined in the PSE SA Development Plan, agreed with the President of ERO, and afterwards incorporated in relevant investment plans of the Company. PSE SA plans to allocate the funds collected on the Earmarked Fund to financing certain investments, which are the parts of Polish-Lithuanian interconnection project.

In the period from 1 January 2013 to 31 December 2013, a total sum of 78 870,755 thousands PLN from Earmarked Fund was spent on the aforesaid purpose. Because of the schedules of investment processes and the project being time-consuming, the above-mentioned amount of allocated funds does not mean reducing Earmarked Fund in company's capital in a given year. Those expenditures would constitute a basis for decreasing Earmarked Fund after the completion of a given investment task and commissioning of fixed assets, which occurred during the task implementation.

Monitoring technical cooperation between the EU and third-country TSOs

The National electricity system is connected to two electricity systems of third countries – Belarus and Ukraine.

As far as the interconnection with Belarus is concerned, the line is still decommissioned due to poor technical condition precluding its operation. The interconnection with Ukraine allows for electricity supply, which has been carried out under auction-based capacity allocation mechanism since 2011. The auctions introduced by Polish TSO are unilateral. The cross-border exchange between Poland and Ukraine allows only for booking capacity in monthly cycles, for which the transmission capacity auctions are organized, which may be used only by one entity in a given moment, i.e. by the auction winner.

Since 2011 Ukraine has been a member of Energy Community and therefore it became obliged to implement to its national law order the provisions of, inter alia, regulation 1228/2003/EC[13)]. In the scope of monitoring the fulfilment of TSO obligations, the President of ERO was notified about the actions undertaken by PSE SA in relation to cooperation with operators of other systems, aimed at implementation of congestion management mechanisms compliant with regulation 1228/2003/EC. According to information received by Regulator, the Ukrainian party has not yet started the process of implementation of energy-related *acquis communautaire*, as it was obliged. It should also be underlined that the rules of technical cooperation between the domestic TSO and third countries' TSOs were not described in the Transmission Network Code. According to regulation 714/2009, some of those rules should, however, be specified on the level of ENTSO-E, and in this scope they are not monitored directly and exclusively by the President of ERO.

Monitoring investment plans and assessment of their consistency with Community-wide network development plan

The Amending Act changed the provisions of Article 16 of the Energy Law Act, stipulating the procedure and criteria for preparing, submitting and agreeing the development plans with respect to covering current and future demand for electricity. The provisions concerning the obligation to submit to the President of ERO annual reports on the implementation of development plans, were also amended. According to Article 16, paragraph 18 of the Energy Law Act, currently this obligation concerns only a group of energy undertakings, which are obliged to agree their development plans with the President of ERO. Moreover, the final deadline for submitting the reports on the development plans' implementation was also changed – to 30 April each year.

The analysis of the reports on the development plans' implementation revealed that five biggest DSOs and TSO jointly executed the investments at a level close to previously planned value (about 6,6 milliard PLN).

In 2013 the President of ERO prepared another report presenting and evaluating conditions of undertaking and conducting business activity related to generation, transmission or distribution of electricity. The report presented the degree of implementation of development plans in the scope of covering current and future demand for electricity in 2010-2012 (the aforesaid report is available on the ERO website).

Moreover, the process of agreeing updates of TSO development plan for 2010-2015 with respect to years 2013-2017 was continued in 2013. In February 2013, the President of ERO agreed development plan's update with regard to the period requested by PSE SA, i.e. 2013-2017. Due to the need to include new tasks related to issued conditions for connection and signed connection agreements in the development plan, as well as the necessity to update schedules and the scope of works, in October 2013 TSO submitted for agreeing the draft of the next update of the development plan for 2010-2025 regarding the years 2014-2018. By the end of 2013 the agreeing process has not been completed. Information from the update of TSO's development plan, including current investment schedules, are to be used as input for the next edition of the European Ten Year Network Development Plan (TYNDP 2014). The evaluation of the consistency of TSO development plan with the TYNDP is performed within the process of agreeing the update of TSO development plan, as it was performed in case of previous update of TSO's development plan.

[13)] Regulation (EC) No 1228/2003 of the European Parliament and of the Council of 26 June 2003 on conditions for access to the network for cross-border exchanges in electricity.

Furthermore, in 2013 ACER conducted the evaluation of consistency of national development plans with the TYNDP 2012. The EU regulators were involved in this process, including the representatives of the President of ERO. This process has not been completed in 2013.

Cooperation with regulatory authorities from other EU Member States

Continuing the works undertaken in 2012, the President of ERO, PSE SA and POLPX carried out actions so that Poland could join the market coupling project of Czech Republic, Slovakia and Hungary (so-called CZ-SK-HU MC), which was launched in September 2012. The works on the project, in which the Polish regulator was involved, were aimed at implementing the European target model.

In July 2013 the representatives of Poland (the President of ERO, PSE SA and POLPX), together with other members of CZ-SK-HU MC extension project, signed the Memorandum of Understanding on Cooperation Leading to the Accession of Romanian and Polish Parties to the Czech-Slovak-Hungarian Market Coupling. The further works of 5M MC Steering Committee, comprising of representatives of regulatory authorities (ERÚ, ERO, ANRE, URSO and HEA), transmission system operators (ČEPS, PSE SA, Transelectrica, SEPS, a.s. and MAVIR) as well as power exchanges (OTE, OKTE, HUPX, TGE SA and OPCOM) from Czech Republic, Slovakia, Hungary, Poland and Romania, were focused on determining the stages of day-ahead markets integration within the project. The parties had to solve the issue of market design in the view of other integration activities of coupled electricity markets. By means of the survey conducted among market participants active in five markets, the opinions concerning proposed solutions for market coupling gate closure time (GCT) were collected. On the basis of the survey's outcome, the representatives of national regulatory authorities stated that it is not possible to work out the common solution for stakeholders in relation to proposed scenarios of coupling of five markets. Within the framework of further cooperation, the Steering Committee adopted the solution according to which the gate closure time (GCT) was set at 11:00 a.m. for day-ahead market coupling of Czech Republic, Slovakia, Romania and Hungary. It was decided that Polish market would join the market coupling project at a later date, within Central East Europe Flow Based Market Coupling (CEE FBMC).

The cooperation between members of 5M MC project will be continued in order to achieve further market integration. Until the markets in CEE region are coupled, five power exchanges will still cooperate on the introduction of PCR solution, envisaged in the target model, to prepare for the European energy markets integration.

In 2013 the works of the EC ad hoc groups were ongoing, aimed at selection of projects of common interest related to cross-border infrastructure development. With regard to electricity transmission infrastructure, the representatives of ERO participated in the works of BEMIP and Central Eastern Europe working groups. As a result of the works of ad-hoc groups, the European list of PCI was adopted and published in November 2013.

Also, in 2013 the preliminary consultations in cooperation with Lithuanian regulator and TSO were carried out in relation to the request for cross-border cost allocation prepared by the Lithuanian regulator for project constituting a part of Polish-Lithuanian interconnector.

3.1.5. Compliance

Compliance of the regulatory authority with binding decisions of the Agency for the Cooperation of Energy Regulators and European Commission and with the ACER Guidelines

According to Article 37, paragraph 1, letter d of directive 2009/72/EC, the regulatory authority is obliged to comply with and implement any relevant legally binding decisions of the Agency and of the Commission. However, having in mind the fact that the provisions of the aforesaid directive were transposed into the Polish national law in the second half of the 2013, evaluation of those provisions' application would be possible in the next years. For the same reasons in 2013 the President of ERO did not apply to the Agency for the opinion on compliance of decision made by the Regulator with

ACER's guidelines. Moreover, the compliance of the Regulator's decision was not subject to the European Commission's investigation. However, in 2014, the President of ERO cooperated with the EC in the process of granting the electricity transmission system operator the certification of independence.

Compliance of energy companies with relevant EU legislation

The President of ERO controls if the TSO and other market participants fulfil their duties resulting from regulation 714/2009. In the previous year, there were no irregularities in the activities of the transmission system operator with respect to fulfilling the obligations resulting from the aforesaid regulation.

Due to the fact that at the end of 2013 there was only one TSO in the territory of the Republic of Poland acting under full ownership unbundling formula, and meeting the independence criteria by this operator was subject to the ongoing administrative proceeding, the monitoring of TSO independence was not conducted.

In relation to monitoring the implementation of network codes, it would be carried out once the network codes are adopted for application.

Monitoring of coordinated cross-border exchange

The cross-border electricity trade balance and actual flows of electricity from respective countries to Poland and from Poland to other countries in 2013, are shown in the tables below.

Table 1. Balance of cross-border electricity exchange in 2013

Trade balance [GWh]	
Trade balance	4 517,1
Exports	6 853,9
including:	
Czech Republic	2 381,0
Germany	2 210,6
Slovakia	1 455,5
Sweden	806,8
Imports	2 336,8
including:	
Belarus	0,0
Czech Republic	111,3
Germany	199,1
Slovakia	41,2
Sweden	956,0
Ukraine	1 029,2

Source: PSE SA.

Table 2. The actual flows of electricity in cross-border exchange in 2013

Actual flows [GWh]	
From Poland	12 322,6
including:	
Czech Republic	7 846,9
Germany	539,5
Slovakia	3 172,5
Sweden	763,7
To Poland	7 801,4
including:	
Belarus	0,0
Czech Republic	182,3
Germany	5 452,4
Slovakia	121,5
Sweden	1 016,0
Ukraine	1 029,2

Source: PSE SA.

In 2013 the cross-border exchange balance amounted to 4 517,1 GWh. Hence, similarly to previous years, in 2013 Poland was a net exporter. The highest volume of electricity flew from NES to the Czech Republic and Slovakia, whereas most of physical flows of electricity came from Germany.

The number of interconnections between NES and neighbouring electricity system as well as the nature of their operation did not change in 2013. The investments in NES executed in 2013 did not have a direct influence on the increase in capacities available for cross-border exchange.

Maximum transmission capacities offered in 2013 on the Poland-Sweden DC link amounted to: 400 MW for export, and 600 MW for import. The table below presents average values of transmission capacities offered in particular months and the revenues of PSE SA resulting from their allocation.

Table 3. The comparison of monthly values of transmission capacities offered in 2013 and the revenues of PSE SA from transmission capacities allocation on the Poland-Sweden interconnection

Month	Offered transmission capacity		Revenue of PSE SA		
	Export	Import	Export	Import	Total
	[MW]		[EUR]		
1	157	438	117 104	131 397	248 490
2	161	436	114 862	57 486	172 348
3	178	414	495 249	8 406	503 655
4	109	241	409 144	0	409 144
5	149	400	86 514	14 572	101 086
6	131	418	58 198	153 889	212 087
7	108	427	8 698	156 408	165 107
8	119	392	52 857	92 263	145 220
8	132	417	201 365	0	201 365
10	124	432	242 957	11 996	254 953
11	107	400	172 040	33 872	205 912
12	119	357	72 968	149 325	222 293
Average/sum	**133**	**398**	**2 032 056**	**809 604**	**2 841 660**

Source: PSE SA.

Each of the operators (PSE SA and Svenska Kraftnät) receive 50% of the income obtained from allocation of transmission capacities for cross-border exchange. In 2013, the income of PSE SA from this activity amounted to PLN 11 875 575,61.

The transmission capacities on Polish-Ukrainian interconnection were allocated according to the „Rules for offering transmission capacities and for monthly auctions of transmission capacities on PSE SA and NEK UKRENERGO cross border interconnection in 2013", the auctions were organized unilaterally by PSE SA.

The table below presents the volume of transmission capacities offered on the interconnection between Poland and Ukraine in the UKRENERGO → PSE SA direction (import) in 2013.

Table 4. Transmission capacities offered on the Poland-Ukraine interconnection in the UKRENERGO → PSE SA direction (import), and the revenues of PSE SA from transmission capacities reservation in 2013

	Reservation period	Offered transmission capacity [MW]	Transmission capacity offered in reservation sub-period [MW]	PSE SA revenues [PLN]
January	1-31 January 2013	220	–	62 541
February	1-28 February 2013	220	–	98 490
March	1-31 March 2013	220	30 March, 0:00 – 31 March, 6:00 a.m. – 0 MW	72 662
April	1-30 April 2013	220	1 April, 0:00 – 2 April, 6:00 a.m. – 0 MW 8 April, 0:00– 12 April, 12:00 midnight – 130 MW 22 April, 0:00 – 27 April, 12:00 midnight – 0 MW	50 287
May	1-31 May 2013	220	1 May, 0:00 – 6 May, 6:00 a.m. – 0 MW 30 May, 0:00 – 31 May, 6:00 a.m. – 0 MW	20 698
June	1-30 June 2013	220	–	25 344
July	1-31 July 2013	220	–	29 462
August	1-31 August 2013	220	26 August, 0:00 – 31 August, 12:00 midnight – 0 MW	23 760
September	1-30 September 2013	220	–	28 512
October	1-31 October 2013	220	–	29 462
November	1-30 November 2013	220	–	28 512
December	1-31 December 2013	220	25 December, 0:00 – 27 December, 6:00 a.m. – 0 MW	27 324
Total	–	–	–	497 055

Source: PSE SA.

During monthly auctions the transmission capacities of 220 MW were offered. In the auctions for March, April, May, August and December, the transmission capacities were decreased in selected days (reservation sub-periods) due to planned shutdowns of the line or the risk of exceeding voltage limits.

Concentration of available transmission capacity, allocated by PSE SA through auctions on synchronous interconnections in 2013

In the yearly auction for booking capacity on the synchronous interconnections of Poland in 2013, 32 market participants submitted their offers. The transmission capacities were allocated to five entities. Table 5 presents the percentage share of capacity allocated to individual entities. In the yearly auction for export, the shares of allocated capacities were between 3,8% and 65,3%.

Table 5. Share of capacities allocated to individual market participants – yearly auction

No. of participant	Share in allocated capacities
1	65,25%
2	21,25%
3	6,00%
4	3,75%
5	3,75%
Total	100,00%

Source: PSE SA.

In the monthly auctions on the synchronous interconnection, PSE SA allocated transmission capacities for 12 months of the year. With regard to the offers for export submitted on commercial profiles, 34 market participants took part in the auctions. During the whole period (year 2013 – monthly auctions), transmission capacities were allocated to 17 different entities, market participants. Table 6 shows the percentage shares of capacities allocated to entities, who won monthly auctions.

Presented data show that the sum of shares of 15 out of 17 market participants who bought transmission capacities in yearly auctions in 2013 amounted to less than 50% of the total volume of allocated capacities. One of the remaining two participants had the greatest share in capacities allocated – 40,86%.

Table 6. The percentage share in capacities allocated to individual market participants – monthly auctions

No. of participant	Share in allocated capacities
1	40,86%
2	12,56%
3	9,19%
4	8,47%
5	6,51%
6	5,00%
7	3,72%
8	2,79%
9	2,49%
10	2,09%
11	1,86%
12	1,51%
13	1,51%
14	0,70%
15	0,28%
16	0,23%
17	0,23%
Total	100,00%

Source: PSE SA.

In daily auctions on Polish synchronous interconnections, the transmission capacities were allocated both in the export and import directions. During the whole period (year 2013 – daily

auctions) transmission capacities were allocated to 33 different entities, market participants. Table 7 presents percentage shares of capacities allocated to entities who won daily auctions. Presented data indicate that 13 participants who bought transmission capacities in daily auctions, had shares in the total volume of allocated capacities above 1%. The greatest share of one entity amounted to 22,58%.

Table 7. Share of capacities allocated to individual market participants – daily auctions

No. of participant	Share in allocated capacities
1	22,58%
2	19,18%
3	12,19%
4	10,26%
5	7,70%
6	7,25%
7	5,69%
8	4,03%
9	1,85%
10	1,77%
11	1,66%
12	1,65%
13	1,11%
14	0,61%
15	0,51%
16	0,47%
17	0,22%
18	0,19%
19	0,18%
20	0,18%
21	0,15%
22	0,12%
23	0,11%
24	0,09%
25	0,08%
26	0,07%
27	0,07%
28	0,03%
29	0,00%
30	0,00%
31	0,00%
32	0,00%
33	0,00%
Total	100,00%

Source: PSE SA.

Monitoring the constraints in the cross-border exchange due to capacity shortage or grid failures in 2013

Those constraints are understood as the limitations (reductions) to cross-border transmission capacities allocated under auction-based rules, which were calculated by the TSO according to the rules approved by the President of ERO and made available for carrying out cross-border exchange by market participants.

In case of synchronous interconnections, in 2013 there were no limitations (reductions) in allocated transmission capacities.

As far as the Poland-Sweden interconnector is concerned, transmission capacities are allocated under market coupling mechanism which, by principle, does not include auctions/bids longer than day-ahead. Transmission system operators of Poland and Sweden made their capacities available, accepted and nominated the work schedules submitted by the power exchanges, whose execution (in terms of trading) was guaranteed by aforesaid operators. Therefore, it should be stated that, by

principle, there were no limitations to cross-border transmission capacities allocated on the Poland-Sweden DC link.

Regarding interconnection between Poland and Ukraine, the limitations to cross-border exchange due to capacity shortage or grid breakdowns, understood as reductions of cross-border transmission capacities allocated under unilateral auctions, calculated by TSO according to the standards of secure and reliable grid operation were as follows:

- reduction of allocated transmission capacities to 0 MW in the period from 01:00 p.m. of 25 January to 12:00 midnight of 26 January, due to emergency line shutdown caused by ground fault of the phase,
- reduction of allocated transmission capacities to 160 MW in the period from 00:00 of 29 January to 02:00 p.pm of 1 February, due to damage to the telecommunication connection, which led to defective functionality of anti-swinging automatics in Zamość station,
- reduction of allocated transmission capacities to 0 MW in the period from 00:00 of 6 May to 03:00 p.m. of 22 may, due to grid breakdown (damage to three electric poles of 220 kV line caused by extremely bad weather conditions).

Imposing penalties

Pursuant to Energy Law Act, the entity which does not comply with the provisions of regulation 714/2009 is subject to financial penalty. The provisions of Article 37, paragraph 4, letter d of directive 2009/72/EC were implemented to the national law in the section 7 of the Energy Law Act. In order to ensure that energy companies fulfil their duties stipulated in the Act, the Polish legislator introduced also legal standards, which provided public authorities with competences of imposing and enforcing sanctions for breach of regulations. The actions which are subject to fines were outlined in a comprehensive list in the Energy Law Act.

The President of ERO is the authority responsible for imposing most of financial penalties. Only in case of breach of obligations related to production of agricultural biogas or generation of electricity from agricultural biogas, the competences to impose fines were granted to the President of Agricultural Market Agency. The fines are imposed after conducting administrative proceeding. Such proceeding is initiated ex officio. When determining the amount of financial penalty, the President of ERO is obliged to take into account four factors: degree of harmfulness, degree of culpability, the behaviour to date and financial capacities of the penalized party. According to the rules determined in Article 56 of the Energy Law Act, the amount of financial penalty, in principle, cannot exceed 15% of the revenue of the penalized entrepreneur, earned in the previous tax year. In case when the financial penalty is related to the business activity conducted under licence the amount of fine cannot exceed 15% of the penalized entrepreneur's revenue, resulting from the licensed activity, gained in the previous tax year. However, in certain cases, there can be exemptions from those rules: for non-compliance with the obligations of system operator's independence, the amount of fine imposed cannot be lower than 1% and higher than 15% of the revenue; whereas for not issuing within specified deadline the conditions of grid connection, the penalty cannot be lower than 3 000 PLN for each day of delay in issuing grid connection conditions. Moreover, in the cases of not-fulfilling certain obligations related to obtaining and submitting the certifications of origin for redeeming, as well as in the cases of not submitting a declaration, or submitting one which is not compliant with actual state, to commodity brokerage house or brokerage house, the amount of financial penalty was determined using a formula.

Financial penalty is imposed on the entity which is obliged to meet the obligations stipulated in Article 56, paragraph 1 points 1-33 of the Energy Law Act. Therefore, those are mainly legal persons in the form of which the energy undertakings perform their activity. Notwithstanding to imposing a fine on the energy undertaking, the President of ERO is empowered to penalize the head of the company. In such case, the amount of the fine may amount to maximum 300% of the monthly salary.

The Energy Law Act also provides a possibility of renouncement of financial penalty imposition. The President of ERO may decide not to impose penalty if two prerequisites are met simultaneously, i.e. if the degree of harmfulness is insignificant and the entity stopped violating law or fulfilled the obligation.

In 2013 the President of ERO did not conduct proceedings on imposing financial penalty with regard to not fulfilling the obligations determined in the regulation by TSO.

3.2. Promoting competition

3.2.1. Wholesale market

In 2013 gross domestic consumption of electricity amounted to 157 980 GWh and was higher by 0,6% than in 2012. The level of national electricity consumption was related to the pace of GDP growth, remaining at a low level, which according to preliminary estimations of Central Statistical Office (GUS) amounted to 1,6% in 2013. As a consequence, the volume of gross domestic electricity generation amounted to 162 501 GWh and was higher than the volume in the previous year by about 1,7%. The detailed data are presented in table 8. The surplus of electricity generation over its domestic consumption resulted from situation in cross-border electricity trade favourable for Polish entities involved in electricity generation. In 2013 electricity export surplus over import amounted to 4 521 GWh.

Table 8. The structure of electricity generation in 2011–2013 [GWh][14)]

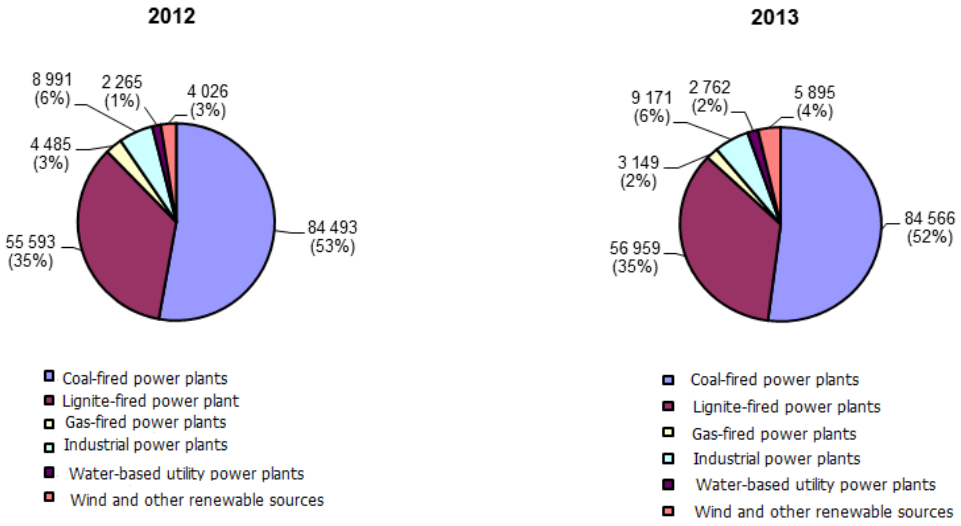
	2011	2012	2013
Total electricity generation	**163 153**	**159 853**	**162 501**
Hard coal-fired power plants	90 813	84 493	84 566
Lignite-fired power plants	53 623	55 593	56 959
Gas-fired power plants	4 355	4 485	3 149
Industrial power plants	9 000	8 991	9 171
Water-based utility power plants	2 529	2 265	2 762
Wind and other renewable sources	2 833	4 026	5 895
Balance of cross-border trade	-5 243	-2 840	-4 521
Domestic electricity consumption	157 910	157 013	157 980

Source: ERO based on data provided by PSE SA.

In 2013 installed capacity of NES increased by 0,9% compared to 2012, and amounted to 38 406 MW. Therefore, in comparison with 2012, in 2013 there was growth of 360 MW in installed capacity of NES. The average annual demand for electricity amounted to 21 884 MW, with peak demand at the level of 24 761 MW (which means growth by 0,3% and fall by 4,2% respectively, in comparison with 2012). The relation of available capacity to generating capacity decreased insignificantly from 71,68% in 2012 to 70,54% in 2013.

[14)] The presented values are calculated on the basis of measurements conducted by TSO during current NES operation. Because of that, in some cases, there may be differences in final measurements published by energy undertakings for statistical purposes.

Figure 2. The comparison of electricity generation structure in 2012 and 2013 [GWh][15)]



Source: ERO based on data provided by PSE SA.

The structure of electricity generation in 2013 did not change significantly in comparison with 2012. The vast part of generation was based on conventional fuels, i.e. hard coal and lignite. The increase in the share of wind and renewable sources was continued.

Market participants in the wholesale electricity market include:
a) utility power plants and heat and power plants,
b) industrial heat and power plants,
c) producers generating electricity in renewable sources (RES),
d) default suppliers, i.e. entities established after the unbundling of trading and distribution activities,
e) other companies conducting business activity related to electricity trading.

The market share of individual energy groups, as well as the structure of those entities did not change significantly in 2013. Three biggest capital groups carried out about $^{2}/_{3}$ of domestic generation of electricity.

In 2013, similarly to the years 2011-2012, the sales through power exchange and sales to trading companies constituted the main forms of electricity sales used by generators. For trading companies, in 2013 the growth in the sales to other trading companies and through power exchange can be observed, as well as growth in sales to end-users.

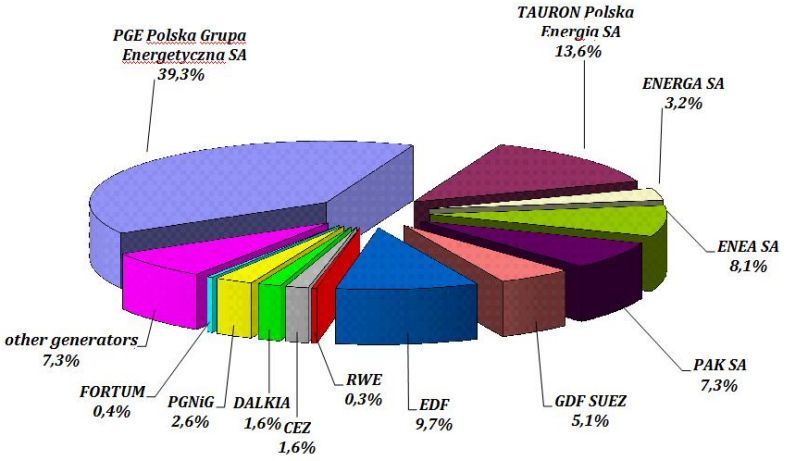
The current structure of the energy sector and the level of its concentration were shaped by the process of consolidation, first horizontal and afterwards vertical, of energy companies owned by the State Treasury. This process is a result of the implementation of "Programme for Electricity Sector", adopted by the Council of Ministers in 2006. In practise, the consolidation process is still ongoing and its outcome will undoubtedly influence the level of competition development in the wholesale market.

The number and structure of entities active in electricity sector did not change significantly in 2013, compared to 2012. The biggest share in generation subsector was still held by PGE Polska Grupa Energetyczna SA capital group, whereas in the segment of sales to end-users – by TAURON Polska Energia SA. Market share of PGE Polska Grupa Energetyczna SA capital group in the generation subsector amounted to 39,3%[16)] (in 2012 – 40,5%), while the share of TAURON Polska Energia SA group amounted to 13,6% in 2013, which marks a decrease in comparison with 2012 by 0,1 percentage point. Other important generators are: ENEA SA, ZE PAK SA, GDF SUEZ, PGNiG, Dalkia, CEZ, Fortum, RWE.

The share of capital groups in volume of electricity fed into the grid is illustrated in the figure 3.

[15)] The percentage values are rounded to the full values.
[16)] The share is calculated as per energy fed into the grid.

Figure 3. The share of capital groups in the volume of electricity fed into the grid in 2013



Source: Ministry of Economy and ERO.

The presence of vertically integrated energy groups affects the high degree of concentration of generation and trading subsectors. The state of competition in the market was measured mainly by the market concentration indexes (table 9 below).

Table 9. The level of concentration in generation subsector[17)]

Year	Number of entities with at least 5% market share in installed capacity	Number of entities with at least 5% market share in the volume of electricity fed into the grid	Share of three biggest entities in installed capacities [%]	Share of three biggest entities in the volume of electricity fed into the grid [%]	HHI index[18)]	
					Installed capacity	Volume of power fed into the grid
2012	5	6	56,7	64,3	1 587,9	2 096,0
2013	5	6	55,4	62,6	1 522,3	1 991,7

Source: Ministry of Economy and ERO.

The index of market share of three biggest entities, measured by volume of electricity fed into the grid (including the volume of electricity delivered by generators to end-users directly) in 2013 remained at the high level of 62,6%. At the same time, this index fell significantly – by 1,7 percentage point – in comparison with previous year. Similar trend was observed for the second index – the share of three biggest generators in installed capacity. In comparison with 2012, in 2013 this index decreased by 1,3 percentage point. Three biggest generators (i.e. generators from capital groups of: PGE Polska Grupa Energetyczna SA, TAURON Polska Energia SA, EDF) held more than a half of installed capacities, and covered almost $^2/_3$ of electricity generation in the country.

The HHI index, measured by installed capacity and by volume of electricity fed into the grid (including the amount of electricity provided by generators to end-users directly), decreased significantly in 2013, compared to 2012 (by 4,1% and 5,0% respectively).

[17)] For all entities operating in the generation sector, subject to statistical obligation, including installed capacity and volume of electricity from wind and water sources fed into the grid.

[18)] Herfindahl-Hirschman Index (HHI) set as the sum squares of individual market shares of all companies constituting the branch: HHI > 5 000 – very high concentration, HHI between 1 800 and 5 000 – high concentration, HHI between 750 and 1 800 – average concentration, HHI below 750 – low concentration (according to the „Report on electric power and gas internal market development progress status", Brussels, 2005, and J. Kamiński, „Metody szacowania siły rynkowej w sektorze energetycznym", Polityka Energetyczna, Volume 12, Number 2/2, 2009.

3.2.1.1. Monitoring the level of prices, the level of transparency, the level and effectiveness of market opening and competition

Monitoring the functioning of wholesale electricity market covers, among others, wholesale prices. Within the conducted monitoring, data on bilateral contracts concluded on the wholesale OTC market and power exchange market (on POLPX) are collected and analysed. On the basis of data received from generators and trading companies, and from official statistic's reports, the average annual prices of electricity sales on competitive market, and average quarterly prices of electricity sold under other rules than public sale, are calculated and published.

The average annual electricity sales price on the competitive market

As stated in Article 23, paragraph 2, point 18, letter b of the Energy Law Act, the President of ERO calculates and publishes, until 31 March each year, the average price of electricity sales on the competitive market for the previous year. Those calculations comprise the sales of electricity, calculated after delivery, performed by generators and trading companies within competitive segments of domestic wholesale market, i.e. sales to trading companies under bilateral contracts and through power exchange. Those prices are shown in table 10. Due to adopted calculation methodology, this price includes different profiles of delivery (e.g. base, peak).

Table 10. The annual average price of electricity sales on competitive market [PLN/MWh]

Price for year	2009	2010	2011	2012	2013
Annual average price of electricity sales on competitive market [PLN/MWh]	197,21	195,32	198,90	201,36	181,55

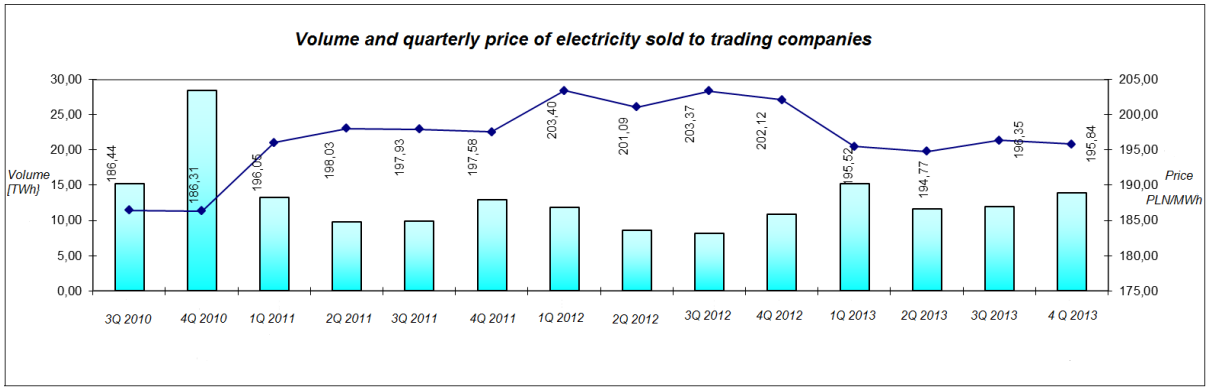
Source: ERO.

The average quarterly price of electricity sold under rules other than those referred to in Article 49a, paragraph 1 and 2 of the Energy Law Act

Pursuant to Article 49a, paragraph 8 of the Energy Law Act, the President of ERO calculates and publishes quarterly average price of electricity sales, which is not subject to the obligation referred to in paragraph 1 and 2 of aforesaid Article, within 14 days from the end of a quarter.

When calculating the above-mentioned price, the Regulator takes into account data from execution of contracts for electricity sales to trading companies, concluded by energy companies involved in electricity generation, which are obliged to sell part of generated electricity according to rules stipulated in Article 49a, paragraph 1 and 2 of the Energy Law Act. Those calculations include electricity sales, calculated after delivery. Figure 4 shows the average quarterly prices of electricity sales, which is not subject to the above-mentioned obligation. Due to the adopted calculation methodology, this price includes different delivery profiles (e.g. base, peak).

Figure 4. The average quarterly price of electricity sold under rules other than those referred to in Article 49a, paragraph 1 and 2 of the Energy Law Act [PLN/MWh]



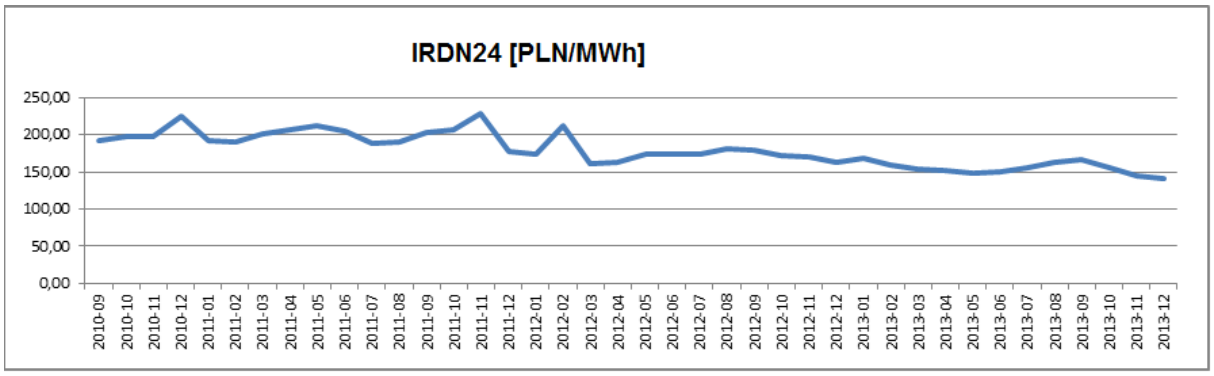
Source: ERO.

Prices on POLPX spot market

Figure 5 presents the fluctuation of prices on the spot market – DAM, conducted by POLPX. The IRDN24 index represents average price of all transactions on the trading session on DAM, calculated for particular delivery date.

While comparing monthly average values of IRDN24 in December 2012 with corresponding values of 2013, the decrease in prices by more than 13% can be observed.

Figure 5. Volume-weighted average monthly price of electricity in spot transactions – IRDN24 index [PLN/MWh]



Source: POLPX and ERO.

Prices on POLPX forward market

The year 2013 was another year in which the decrease in electricity prices on forward market continued. This trend was reflected by the fall in prices of BASE_Y-14 forward contracts – the volume-weighted average transaction price of this contract during whole 2013 was at the level of 155,00 PLN/MWh. At the same time, the price of BASE_Y-14 at the end of 2012 amounted to 177,00 PLN/MWh, whereas at the end of 2013 the price of this contract was equal to 152,25 PLN/MWh, which represents a fall by about 14%.

In 2013 the total volume of electricity trading at all POLPX electricity markets, amounted to 176,553 TWh and was higher by 8,6% than domestic electricity generation in 2013, and higher by 11,8% than total consumption.

The data presented above confirm that the purpose of introducing the obligation of public electricity sale has been achieved by:

- ensuring equal access to electricity for all market participants by guaranteeing equal conditions of participating in the electricity trading through power exchange,
- ensuring transparency in electricity trading by guaranteeing equal access to information including electricity prices and conditions of participation in electricity trading,
- making electricity prices more actual by carrying out majority of wholesale trade in the form of legally and formally organized market, i.e. power exchange, simultaneously maintaining supervision of Polish Financial Supervision Authority over this market,
- introducing the liquidity of electricity trading on power exchange constitutes also an alternative form of buying electricity by final customers which, in consequence, results in empowering consumers and strengthening their position on the electricity market,
- ensuring security of transactions' settlements by licensed Warsaw Commodity Clearing House.

3.2.2. Retail market

Retail electricity market is a market, where the final customers (both households and undertakings) buy electricity for their own needs. Apart from final customers, there are also energy companies responsible for managing distribution grid on the retail market, including distribution system operators, and electricity suppliers (trading companies).

In 2013 the President of ERO maintained the obligation to submit for approval, on annual basis, electricity tariffs with regard to consumers in G tariff group (mainly households), connected to distribution system operator's grid, who did not decide to switch supplier. For the remaining groups of customers, electricity prices are shaped by the market.

Electricity tariffs for G tariff groups, approved by the President of ERO, are published in the ERO Bulletin. Also, since 2010 all electricity suppliers who sell electricity to end-users have been legally obliged to publish on their website and make publicly available at their premises the information on electricity sales prices as well as conditions of their application.

3.2.2.1. Monitoring the level of prices, the level of transparency, the level and effectiveness of market opening and competition

Since 2010 all electricity suppliers who sell electricity to final customers have been legally obliged to publish on their website and make publicly available at their premises the information on the prices of electricity sale and the terms and conditions of their application. In the case of big industrial/commercial customers, the electricity offers are presented individually by the electricity suppliers. Prices and other terms of contract are each time negotiated with a client and they differ, depending on the duration, volume or firmness of the consumption.

In 2013, similarly to the previous year, there was a tariff calculator available on the ERO website, enabling household consumers to compare offers of electricity suppliers and, therefore, supporting households in choosing the best offer. In 2013 about 20 suppliers uploaded their offers into the price comparison tool.

The President of ERO monitors, on a quarterly basis, the average electricity trading prices, applied to final customers, broken down by the volume of electricity consumed (i.e. consumers with annual electricity consumption below 50 MWh, between 50 and 2 000 MWh and over 2 000 MWh). In ad-hoc investigations, depending on the needs, the President of ERO monitors the level of electricity prices for final customers, using a data from official statistic. Relevant information is shown in the table below.

Table 11. The number of customers, consumption volume, value and average prices of electricity applied to end-users, broken down by the volume of consumption

Customer group by consumption volume	Number of customers	Consumption volume [MWh]	Value [thousands of PLN]	Average price [PLN/MWh]
< 50 MWh	16 601 368	45 618 849,7	13 216 977,2	289,73
50 – 2 000 MWh	37 994	27 781 761,8	7 217 355,5	259,79
> 2 000 MWh	2 515	31 550 352,7	7 145 969,4	226,49
TOTAL	16 641 877	104 950 964,2	27 580 302,1	262,79

Source: on the basis of quarterly surveys from suppliers for 2013.

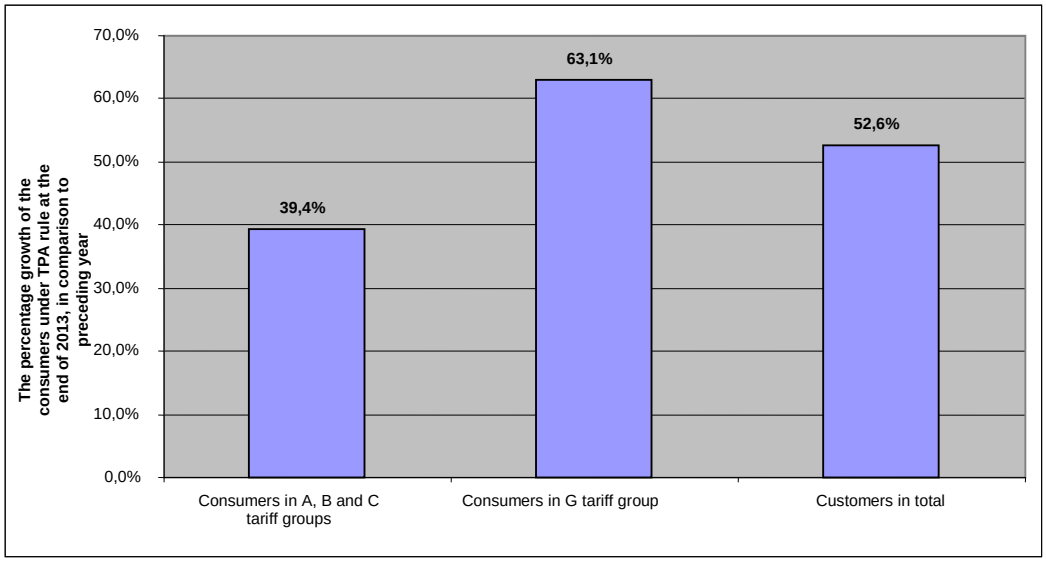
The biggest share in the sales of electricity to final customers was held by incumbent suppliers who, after unbundling of distribution system operators, remained a party to the common service agreements, i.e. agreements concluded with final customers comprising the provisions of sale and distribution agreements. Those suppliers perform a function of default suppliers to households who did not decide to switch supplier.

In Poland there is approximately 16,7 million of final customers, 90% of them (more than 15 million) are consumers in G tariff group (more than 14 million), including households (more than 14 million) who buy electricity to use it in household activity. At the same time, the volume of electricity supplied to this group of consumers is not high and amounts to approx. 24% of total electricity supply. The remaining final customers comprises consumers from groups A, B and C. The groups A and B include consumers supplied from high- and medium-voltage grid, so-called industrial customers, whereas group C includes the consumers connected to low-voltage grid, whose electricity consumption is related to conducting business activity, i.e. commercial customers. The electricity consumers are entitled to be supplied with electricity in continuous and reliable manner by chosen electricity supplier.

The question of exercising by consumers their rights on the retail market is measured by their tendency to conclude the electricity sales agreement with a freely chosen electricity supplier. The results of market monitoring show that the year 2013 was another year of dynamic growth in the number of consumers who switched supplier. In groups of commercial customers A, B and C, increase by 39,4% in the number of customers who switched supplier was observed in comparison to 2012. It may indicate that, although this market segment reached certain saturation level, the companies are still looking for possibilities to reduce their electricity purchase costs and they actively exercise their right to switch supplier. As for the segment of households, the number of consumers who decided to switch supplier grew by about 63,1% in comparison to the situation recorded at the end of 2012. Therefore, a significant stable pace of changes in TPA index within households can be observed, in comparison to the companies segment, which may be a result of the information campaigns conducted during the last years by the President of ERO, cyclical consumer knowledge fairs, as well as the availability of price comparison tool on the ERO website (tariff calculator). Another factor that influenced the observed situation was the increased intensity of suppliers' activity aimed at acquiring new clients, and enhanced activity of alternative suppliers (new trading companies). This activity, perceived as a positive stimulus in terms of retail market development, had also some negative aspects. In 2013, similarly to the previous years, ERO received signals, mainly from household consumers, concerning aggressive marketing policy applied by certain suppliers during presentation of their offers and conclusion of new sales agreements. This situation confirmed the necessity to continue educational and informational activity, aimed at increasing the knowledge and awareness of small consumers. Notwithstanding the above, along with growing number of consumers who decided to switch suppliers, some irregularities were observed in exercising of TPA rule as well as in actions undertaken by particular market participants (suppliers, DSOs, agents and brokers). However, while evaluating the growth indicators, it should be remembered that in general still relatively small number of consumers (about 1,31%) exercised the right to switch supplier, although it should be underlined that in relation to 2011 the increase in this index was observed (in 2012 it amounted to 0,86%).

The percentage growth in the number of consumers under TPA rule broken down by tariff groups at the end of 2013, in comparison to the preceding year, is shown in the figure 6.

Figure 6. Change in the number of TPA consumers divided by tariff groups (%)

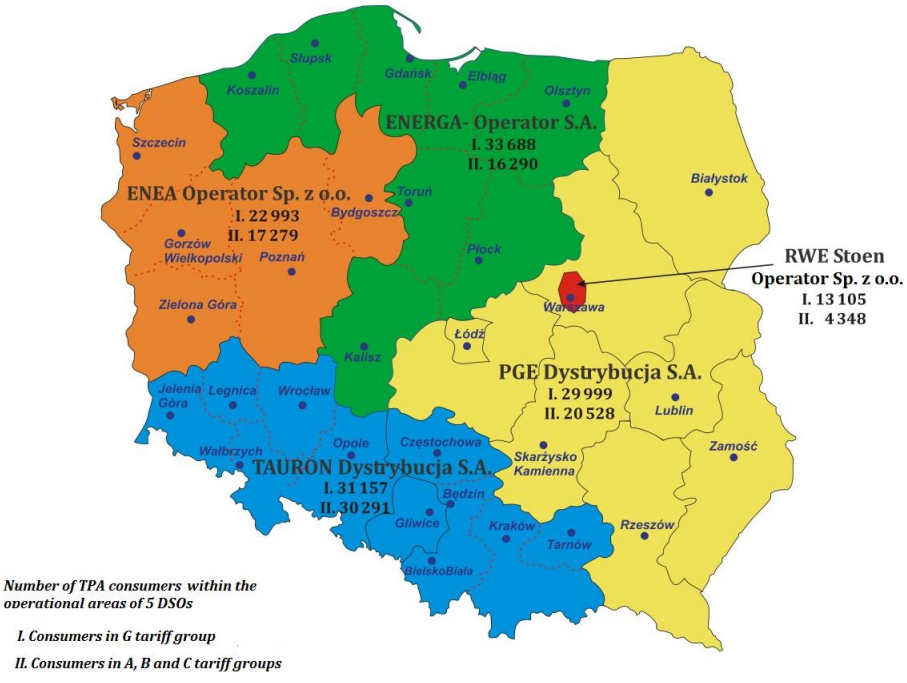


Source: ERO.

The analysis of the data submitted by individual operators shows that, in 2013, exercising the TPA rule varied depending on the part of the country (figure 7). Similarly to the previous year, the highest number of consumers in A, B, C tariff groups, who decided to switch supplier, was observed within the operational area of TAURON Dystrybucja SA. With regard to the households segment, the highest number of consumers who switched supplier occurred within operational area of ENERGA-Operator SA.

In 2013, the highest volume of electricity provided under TPA rule was purchased by consumers connected to the grid of TAURON Dystrybucja SA - electricity supplied to consumers exercising the right to switch supplier constituted more than 53,15% of total volume of electricity supplies (24 008 GWh) in this operator's grid. Such situation is caused by significant share of big industrial consumers under TPA rule in the total volume of electricity supplied to consumers connected to the grid of this operator.

Figure 7. Exercising the right to switch supplier within operational area of particular distribution system operators



Source: ERO.

The total volume of electricity sold in 2013 to final customers under market-based rules, i.e. after exercising TPA rule (supplied through the distribution grid) amounted to 48 654,6 GWh, i.e. 37,94% of total volume of electricity supplied to final customers. It should be noted that in 2012 the final customers under TPA rule were supplied with electricity in the amount of 42 524,5 GWh, i.e. 33,36% of total volume of electricity supplied to consumers. Those data indicate the development of competition in the Polish electricity market.

The consumers in A, B, C tariff groups should be understood as those final customers who purchase electricity on high, medium and low voltage levels for needs other than social and living purposes. With regard to those consumers, the electricity prices are not subject to approval of the President of ERO, whereas G tariff group includes consumers who purchase electricity for living and social purposes (independently from the voltage level). Tariffs for electricity sales to this consumer group are still subject to the Regulator's approval. It should also be noted that tariff regulation is applied only to default suppliers. The supplier other than default supplier applies prices which are not subject to approval of the President of ERO.

3.2.2.2. Recommendations on supply prices, investigations and measures to promote effective competition

Price regulation system

The President of ERO still maintains the obligation to submit each year, for his approval, the electricity tariffs for households, i.e. consumers in G tariff group, connected to the grid of distribution system operator, who did not switch supplier. Prices for other consumer groups are shaped by the market.

In December 2012, for four trading companies acting as default suppliers, the President of ERO approved the changes of decisions approving electricity tariffs for G tariff groups, in the scope of tariffs' validity period, and extended this period until 30 June 2013. Extension of tariffs' validity period contributed to providing stability of the electricity market, which was both in the public interest and the legitimate interests of the parties, and it was aimed at achieving one of the main goals of regulation, i.e. balancing the interests of energy undertakings and customers.

Afterwards, in May 2013 the above mentioned energy undertakings were summoned to submit electricity tariff, applicable as of 1 July 2013. After analysing submitted requests, it was concluded that in case of three companies the costs constituting the basis for price calculation in the tariff were planned on the level which could not be recognized as justified. Due to that, in the course of administrative proceeding the President of ERO issued the resolution setting the correction coefficients Y_n, determining the change in external conditions of conducting electricity trading activity, as stipulated in Article 21, paragraph 2, paragraph 3, points 1 and 3, and paragraphs 4 and 5 of the tariff regulation, which is applied to electricity prices for consumers in G tariff group. At the same time those undertakings were obliged to submit amended tariffs, taking into account the aforesaid coefficients. In case of the one remaining company, the costs forming basis for calculation of price in the tariff were set on justified level. Finally, in June 2013 the electricity tariffs of four trading undertakings were approved for the period from 1 July 2013 to 31 December 2013.

In November 2013 the process of approving tariffs for 2014 started. As a result of conducted proceedings, in December 2013 those tariffs were approved by the President of ERO for the period until 31 December 2014.

For consumers in G tariff group who did not switch supplier, electricity prices are included in the tariffs of trading companies, approved by the President of ERO and published in the „Industry Bulletin of the Energy Regulatory Office – electricity".

Carrying out investigations and imposing measures to promote effective competition

In 2013 the President of ERO received letters (complaints), requesting intervention on the activity of energy undertakings which, according to consumers, violated their interests. In particular, those cases concerned impeding the supplier switching process. The President of ERO undertook actions to

clarify the situation, which in most cases led to positive completion of supplier switching process by electricity customers.

The main problems/complaints handled by the Regulator in 2013 are described below.

One of such cases was supplier's complaint about the DSO's actions with regard to concluding agreements concerning supplier switching. After analysing the documents submitted by the parties to the President of ERO, the Regulator stated that the supplier switching procedure, carried out by DSO for the plaintiff, was conducted properly, without violation of the provisions of law. However, the President of ERO indicated that the trading company, as a professional entity, did not assure the highest degree of due care while conducting supplier switching procedure.

The President of ERO received also the complaint of alternative supplier on default supplier and other companies belonging to the capital group, concerning i.e. irregularities in supplier switching procedures carried out by DSO and mutual relations between companies within the capital group, in relation to customer service. The President of ERO requested DSO to provide explanations on the cases of suspension of supplier switching procedure in relation to one of the suppliers. In particular, the President of ERO asked for explanations concerning suspension of supplier switching procedure due to the fact that the termination of complex agreement concluded with previous supplier was recognized as ineffective. Additionally, as there were few different distribution network codes in force within operational area of one DSO, the President of ERO requested more detailed explanations of the reason for suspension of supplier switching procedure, dependent on in which part of DSO's operational area the client is living. In its response, the DSO explained that within one part of its operational area the procedure is to be suspended in case of the previous supplier's objection. The President of ERO did not share this view and ascertained that the supplier switching procedure should be completed according to the customer's will. On the other hand, in case of other part of operational area of the DSO, the President of ERO shared the view of the operator, and stated that the provisions of distribution network code provide for the possibility to refer to the termination of common service agreement by the previous supplier. Then, within other part of operational area of the DSO, the President of ERO confirmed that it is not possible to stop the procedure due to the previous supplier's objection. Moreover, the President of ERO informed about ongoing works on the new DSO's distribution network code, uniform for whole DSO's operational area, which would eliminate the possibility to suspend switching procedure due to objection of the previous supplier concerning the effectiveness of common service agreement's termination. Furthermore, with regard to complaint concerning the relations between companies belonging to one capital group, the President of ERO summoned previous suppliers to submit explanations, which confirmed the presence of irregularities in customer service, indicated by the alternative supplier. The President of ERO obliged them to eliminate similar irregularities in the future. Moreover, the President of ERO informed the supplier about different models of functioning of customer service points, applied by different DSOs and agreed that those models do not function properly, and, according to the information received from consumers and alternative suppliers, there are cases of discriminatory treatment of system users. Those cases are subject to explanatory proceedings conducted by the President of ERO. Regulator also pointed out the role of Compliance Programmes in ensuring non-discriminatory treatment of end users, and the problems in practical application of those documents.

In March 2013 the President of ERO received a complaint of one of alternative suppliers concerning the actions of five biggest DSOs, consisting of hindering the execution of supplier switching with regard to consumers who signed electricity sales agreement. The President of ERO requested DSOs to provide relevant clarifications concerning i.a. suspension of electricity supply and execution of applications for resuming electricity supplies, delays in sending the agreements on providing distribution services to be signed by consumers, current information concerning termination of agreements on providing services for consumers, as well as delays in publishing information on timely termination of electricity sales agreements in the Information Exchange Platform (IEP). After the analysis of the documents submitted by operators, the President of ERO ascertained that in cases when the DSO's obligation results from the concluded General Distribution Agreement (GDA), the President of ERO is not a competent authority to resolve disputes resulting from the concluded civil law agreements. It is common court that is responsible for handling such complaints. In other cases, the President of ERO found the DSOs' clarifications sufficient, whereas in relation to delays in publishing information on deadlines for termination of electricity sales agreements in IEP, it was stated that those practices were recognized as incorrect as they had negative impact on the flow of information between market participants. However, the described irregularities, although harmful, are

not an element of supplier switching procedure stipulated in the distribution network code, for non-compliance with which the President of ERO may initiate the proceeding on penalizing, pursuant to Article 56, paragraph 1, point 19 of the Energy Law Act. Notwithstanding the above, it should be noted that DSOs assured that they would take due care to prevent occurrence of such situations in the future or limit them to the minimal level.

In relation to other actions undertaken by the President of ERO in 2013 to promote competition in the market, it should be noted that works conducted since 2012 by TOE and Polish Association of Electricity Distribution and Transmission (PTPiREE), aimed at establishing a template of general distribution agreement (determining detailed rules for providing common service agreement, so-called Complex-GDA) were completed. At the same time, representatives of the President of ERO participated in works on the implementation of Complex-GDA to general use. During the meetings organized by the Regulator with representatives of DSOs (affiliated to PTPiRE) and suppliers (affiliated to TOE), and alternative suppliers, the issues of practical use of Complex-GDA were discussed. The final template of Complex-GDA aims at allowing every supplier (including alternative one) to offer complex service to household consumers, which would undoubtedly make the supplier's offer more attractive. Previously, only default suppliers concluded agreements with the DSOs, allowing for providing complex service. Preparing such template is predicted to facilitate and accelerate the process of concluding the agreements and, therefore, facilitate the process of entering into market by new alternative suppliers. According to DSOs' declarations, the Complex-GDA template was implemented for use as of 1 January 2014.

In order to counteract monopolistic practices and to promote competition, the President of ERO cooperates with relevant public authorities, including the President of UOKiK. Having in mind the competences of the President of UOKiK in the scope of competition and consumer protection, resulting from the Act of 16 February 2007 on competition and consumers protection, the President of ERO redirected several cases to the President of UOKiK (almost 50 letters from consumers in G tariff group), regarding consumers' complaints about actions of certain alternative supplier related to supplier switching procedure. The indicated cases may constitute the practices infringing collective consumer interests by breaching the obligation to provide consumers with reliable, real and complete information, as well as by unfair market practices and unfair competition practices. The claims of the consumers concerned mainly being provided with misleading information when concluding unfavourable agreements. Those agreements in most cases were connected with obligatory medical insurance, about which the consumers were not informed when signing the agreement. One of the cases concerned misleading the consumer by the alternative supplier, whose agents claimed to be representatives of "power distribution company" or "one of default suppliers". Another case concerned the level of prices set by an energy undertaking for the customer of propane-butane gas, used for living purposes in a household.

Antimonopoly proceedings on cases restricting competition and other actions conducted by the President of ERO in reference to the energy sector[19)]

With regard to the energy sector undertakings, in 2013 the President of UOKiK conducted antimonopoly proceedings as well as a series of explanatory proceedings, including, i.a.:

I. Antimonopoly proceedings in cases concerning practices restricting competition:
   1. The President of UOKiK, on the basis of the outcome of explanatory proceeding (Re. No. RBG-400-20/12/JM), in the resolution No. RBG-172/2013 of 15 July 2013 initiated an antimonopoly proceeding regarding the suspicion of abuse, by ENEA Operator Sp. z o.o., with its registered office in Poznań (hereinafter: "ENEA Operator"), of dominant position on the regional electricity distribution market, within company's network area covering western and north-western parts of Poland (Wielkopolskie, Lubuskie, Zachodniopomorskie, Kujawsko-Pomorskie Voivodships or their parts), through hindering shaping of conditions necessary for the development of competition in domestic electricity trading market, by interrupting the supplier switching process, which resulted in the necessity to start the process again, as a consequence of:

[19)] Fragment on the basis of information provided by UOKiK.

a) negative verification of notifications about the supplier switching by the consumer in the case of formal error in notification, in a situation when the concept of formal error is arbitrarily interpreted by ENEA Operator,
b) lack of verification of the objection submitted by the default supplier (or previous supplier) related to the termination date of common service agreement (or electricity sales agreement), in the aspect of being submitted within the deadline and for reasons enumerated in the supplier switching procedure, stipulated in the distribution network code, which may constitute a breach of Article 9, paragraph 1 and paragraph 2 point 5 of the Act on competition and consumer protection.

On 31 December 2013 the binding decision was issued (Re. No. RBG-50/2013), obliging ENEA Operator to introduce adequate provisions into the new distribution network code, in the section "System balancing and congestion management".
The decision is valid and was implemented.

2. On 12 April 2012, the President of UOKiK initiated antimonopoly proceeding (Re. No.: RBG-411-02/12/PD) against ENERGA-OPERATOR SA with its registered office in Gdańsk (hereinafter: "Energa Operator") due to suspicion of applying by Energa Operator the practices restricting competition, consisting in the abuse of dominant position on local electricity distribution market, covering the area within which company's grid is located, by threatening the suspension of electricity supply in a situation when the consumer refrains from payments for electricity (because the amount of payments was calculated on the basis of incorrectly functioning meter, when the payment is questionable as in principle or as to the amount, and the consumer is not responsible for incorrect functioning of the meter which led to incorrect calculation of payment), which may constitute a breach of Article 9, paragraph 1 of the Act on competition and consumer protection.
   In the decision of 27 June 2013, the President of UOKiK discontinued the proceeding and found it devoid of purpose. In the course of the proceeding it was concluded that Energa Operator did not perform actions, of which the company was accused, and therefore it was not possible to conduct administrative proceeding against this company. As a consequence of the above-mentioned, it was not possible to issue a conclusive decision on the merits of the case. Thus, the proceeding concerning practices restricting competition was discontinued.
   The decision is legally binding.

3. In 2013 the President of UOKiK continued the proceeding on the suspicion of applying, by ENEA Operator with its registered office in Poznan, practices restricting competition, referred to in Article 9, paragraph 2, point 5 of the act on the competition and consumer protection, consisting in the abuse of dominant position on the local electricity distribution market, covering the area of the following voivodshops: Wielkopolskie (former: poznańskie, pilskie and leszczyńskie), Zachodniopomorskie, Lubuskie and Kujawsko-Pomorskie (former: bydgoskie), by hindering the development of competition on the domestic electricity generation market by flagrant violation of deadlines for issuing conditions of connection to the grid (stipulated in the secondary legislation issued on the basis of the Energy Law Act), and determining the scope of assessment of the impact of planned wind farm on the electricity system (Re. No. RPZ-411/6/07/ES/JK).
   This proceeding was a continuation of proceeding completed in the point II of the decision of the President of UOKiK of 30 September 2008, Re. No. RPZ-34/2008. As a result of appealing procedure, the above-mentioned point of the decision was lawfully repealed by the Court of Appeal, in the sentence of 17 March 2011 (VI ACa 1027/10). Therefore, in this respect the proceeding is being carried out once again.

II. Other actions undertaken in relation to entrepreneurs active in the energy sector:
1. On 14 March 20143 the President of UOKiK initiated an explanatory proceeding (Re. No. RLU-400-12/13/MW) concerning preliminary establishment of the rules of charging the consumers for electricity supply by PGE Obrót SA in Rzeszów. The proceeding was launched after the complaint lodged by entrepreneur with regard to the method of charging for electricity (using the 80 multiplicand) applied by the undertaking. The collected materials and its analysis did not allow for launching antimonopoly proceeding. The proceeding was completed on 30 April 2013.

2. On 24 October 2013 the President of UOKiK initiated an explanatory proceeding (Re. No. RLU-400-34/13/MW) concerning establishing the rules for classification of new electricity consumers in tariff group by PGE Obrót SA, with its registered seat in Kielce, including preliminary clarification if the violation of the Act on Competition and Consumer Protection occurred, which would justify initiating an antimonopoly proceeding, and whether the case has an antimonopoly nature.
   The collected materials and its analysis did not allow for launching antimonopoly proceeding. The proceeding was completed on 15 November 2013.

3. The President of UOKiK conducted an explanatory proceeding (Re. No. RKR-400-22/13/PP) on determining the conditions for the reserve electricity sales, used in the agreements concluded with consumers connected to the distribution grid of PGE Dystrybucja SA, with its registered office in Lublin.
   The proceeding, launched on 1 August 2013, concerned electricity prices applied under the so-called reserve sales, which was higher by 10% than prices applied in electricity sales on usual basis. The proceeding was conducted due to the notification of the Mayor of Rzeszów City, regarding situations when as a result of extended public procurement, the current electricity sales agreement expired and the reserve electricity sales was launched for municipal entities. In the light of the findings it was concluded that there is no basis for forming allegations of breaching the provisions of the Act on Competition and Consumer Protection. The proceeding was completed on 22 November 2013.

4. On 25 July 2013 the President of UOKiK initiated an explanatory proceeding (Re. No. RKT-400-26/13/AW) in order to pre-determine if, in the process of ordering the execution of works related to connecting customers to the grid within operational area of Tauron Dystrybucja SA, in particular in its branch office in Bielsko-Biała, the violation of provisions of Act on Competition and Consumers Protection could have occurred.
   The explanatory proceeding was initiated after the notification of entrepreneur, who questioned the level of net investments in construction of parts of the grid and electricity connections, proposed by Tauron Dystrybucja SA for carrying out works related to connecting consumers to the grid within the area of the company's branch in Bielsko-Biała. The proceeding was completed on 8 January 2014 with a conclusion that there is no basis for initiating an antimonopoly proceeding.

5. On 7 May 2013 the President of UOKiK initiated an explanatory proceeding to pre-determine if, in the scope of restrictions to the possibility to terminate the electricity sales agreement by clients of Tauron Sprzedaż Sp. z o.o. with the registered office in Cracow, the above-mentioned entrepreneur could have violated the provisions of the Act on Competition and Consumer Protection.
   As a result of the conducted proceeding it was ascertained that in this case there were no violations that would justify launching an antimonopoly proceeding.
   The proceeding was completed on 20 June 2013.

6. On 26 September 2013 the President of UOKiK initiated an explanatory proceeding to pre-determine if the activity of TAURON Sprzedaż GZE Sp. z o.o., with its registered office in Gliwice, in the scope of charging penalties for early termination of electricity sales agreement, may constitute violation of the provisions of the Act on Competition and Consumer Protection.
   As a result of the proceeding it was stated that in this case there were no violations, which would justify initiating an antimonopoly proceeding. The proceeding was completed on 22 November 2013.

7. On 29 August 2012, the President of UOKiK initiated an explanatory proceeding (Re. No. RBG-400-20/12/JM) to pre-determine if companies Enea Operator and Enea, conducting business activity related to distribution and sale of electricity, violated the provisions of the Act on competition and consumer protection by hindering the process of supplier switching to MEM Metro Group Energy Production & Management sp. z o.o. with its registered office in Warsaw.

The explanatory proceeding was finished on 21 November 2013. As a consequence of the findings of the aforesaid proceeding, an antimonopoly proceeding was launched (Re. No. RBG-411-03/13/JM).

8. On 9 October 2011 the President of UOKiK initiated an explanatory proceeding (Re. No. RWA-400-18/11/AT/ZP) to preliminary clarify if, within the public-law obligation to ensure access to electricity market by PGE Dystrybucja, the provisions of Act on Competition and Consumer Protection were violated.
   The proceeding was completed on 2 April 2014. The information collected in course of the proceeding did not form a basis for initiating an antimonopoly proceeding.

9. On 28 March 2013, with reference to the notification submitted by the President of ERO, the President of UOKiK initiated an explanatory proceeding (Re. No. RKR-400-7/13/ES/PP) to preliminary clarify if in course of the activity of energy undertakings belonging to Tauron capital group - Tauron Sprzedaż Sp. z o.o. with registered office in Cracow, Tauron Sprzedaż GZE Sp. z o.o. with registered office in Gliwice and Tauron Dystrybucja SA with registered office in Cracow – in the scope of conditions of agreements on reserve sales of electricity, including provided financial securities, the provisions of the Act on Competition and Consumer Protection were violated.
   The problem in question occurred in 2013, when the reserve sales mechanism was launched in a situation when one of electricity suppliers lost the entity responsible for balancing. The suppliers from Tauron capital group, who were sole reserve suppliers within the operational area of Tauron Dystrybucja, demanded from customers to provide within short period of time, significant financial securities on account of receivables related to reserve sales agreements.
   The proceeding in this case is still ongoing.

10. The President of UOKiK, with the resolution of 18 June 2013, initiated an explanatory proceeding to preliminary clarify if the activity of ENEA Operator, with registered office in Poznań, related to execution of grid connection agreements, could violate the provisions of the Act on Competition and Consumer Protection, including pre-determining if the case has antimonopoly nature.
    The proceeding was launched after the complaint of local electricity distribution company which indicated unequal treatment of entities applying for power increase (Re. No. RPZ-400/13/13/JK).
    The proceeding in this case is still ongoing.

11. On 31 October 2011 the President of UOKiK initiated an explanatory proceeding (Re. No. RWA-400-23/11/AT) to preliminary determine if, in relation to providing complex services of electricity sales and ensuring distribution services for individual clients by PGE Obrót SA, with its registered office in Rzeszów, the violation of provisions of the Act on Competition and Consumer Protection could occur.
    Within the aforesaid proceeding, the procedure applied by PGE Obrót, i.a. in relation to the procedure of readings of meters and other equipment of metering and billing system, controlling and replacing meters or their elements, as well as other metering or metering-billing devices (including installation of seals); the way of settling the costs of maintaining or replacing of the meters and their elements, as well as other metering or metering-billing devices (including installation of seals); settling overpayments related to corrections in settlements.
    The proceeding in this case is still ongoing.

12. On 10 June 2011 the President of UOKiK initiated an explanatory proceeding (Re. No. RWA-400-11/11/AT) to preliminary clarify if relating to electricity distribution services, consisting in transporting electricity to final customer through grid and electricity equipment of high, medium and low voltage by PGE Dystrybucja, in relation to operation, maintenance and renovation of distribution grid, as well as development planning and distribution grid expansion, the provisions of the Act on Competition and Consumer Protection were violated.
    In course of the conducted proceeding, the procedures applied by PGE Dystrybucja in relation to i.a.: operation, maintenance and renovation of distribution grid, as well as planning and conducting grid expansion, receiving and settling complaints lodged by the owners

of properties, related to the legitimacy of entering their property by company's employees and the method of conducting the aforesaid works.
The proceeding in this case is still ongoing.

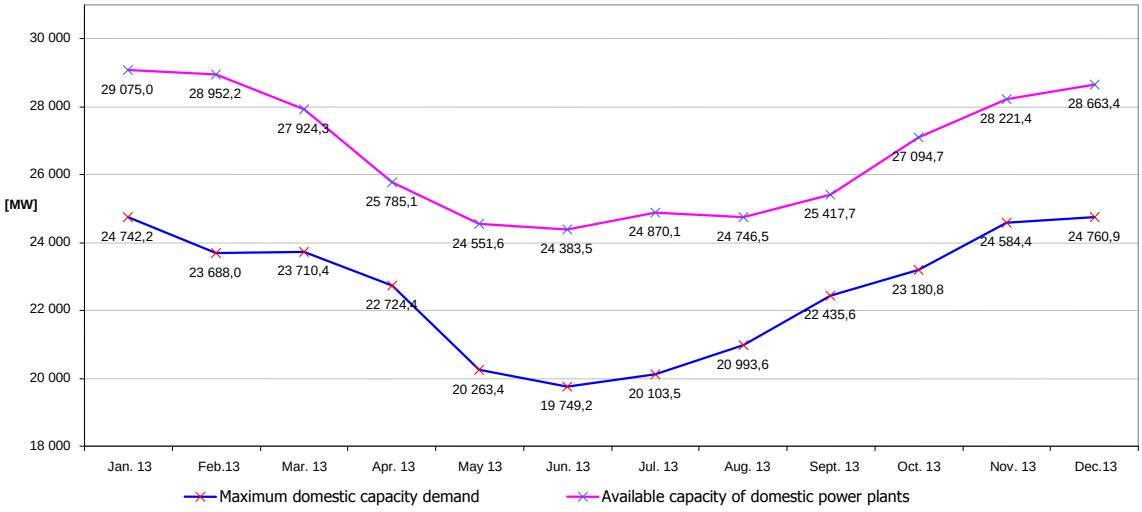
13. On 15 September 2011 the President of UOKiK initiated an explanatory proceeding (Re. No. RWA-400-20/11/AT/ZP) to preliminary clarify if, within public-law obligation to ensure access to electricity market by RWE Stoen Operator sp. z o.o. with registered seat in Warsaw, the provisions of the Act on Competition and Consumer Protection were violated.
The proceeding in this case is still ongoing.

3.3. Security of supply

3.3.1. Monitoring balance of supply and demand

While monitoring the security and reliability of network operation, the President of ERO overviews activities undertaken by system operators in this respect, and evaluates them in the context of ensuring proper network operation. In particular, in course of monitoring, the relation between available capacity of domestic power plants and peak capacity demand in NES in subsequent months of 2013 was assessed. It is presented in the figure below.

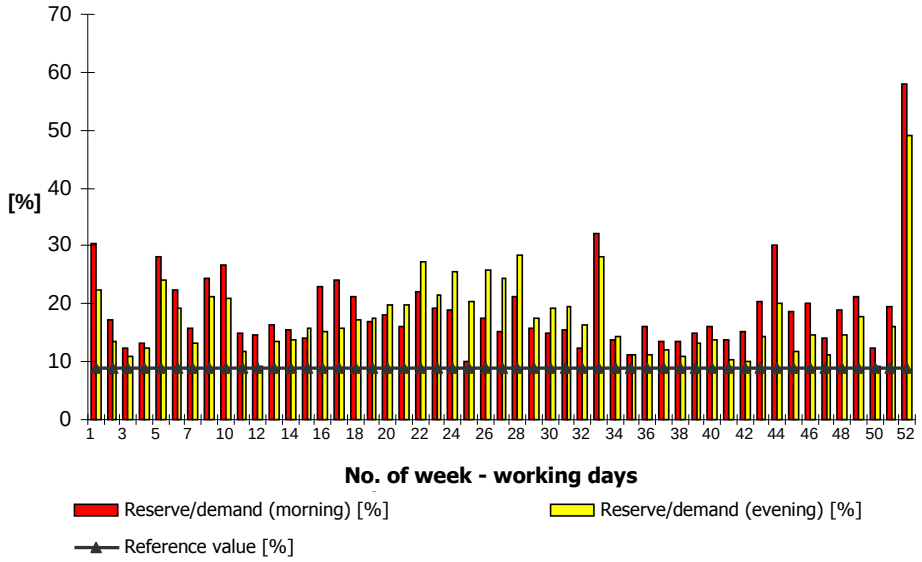
Figure 8. Available capacity of domestic power plants and maximum domestic capacity demand in the evening peak, presented as average values on working days of a month in 2013



Source: ERO based on the data provided by PSE SA.

In 2013, both in morning and evening peak, average weekly ratio of reserves (spinning reserve of CDGU, reserve of water CDGU and cold reserve in CDGU) and capacity demand on working days of particular weeks exceeded the reference value determined in the Transmission Network Code at the level of 9% (required level of operating reserve), what is presented in the figure 9. On the other hand, table 12 shows data concerning capacity reserves in morning and evening peaks in 2013.

Figure 9. The ratio of capacity reserve and capacity demand in morning and evening peaks in 2013 (on the basis of weekly reports of PSE SA, including working days only)



Source: ERO based on the data provided by PSE SA.

Table 12. Minimum and maximum capacity reserve in 2013 (on the basis on daily reports of PSE SA)

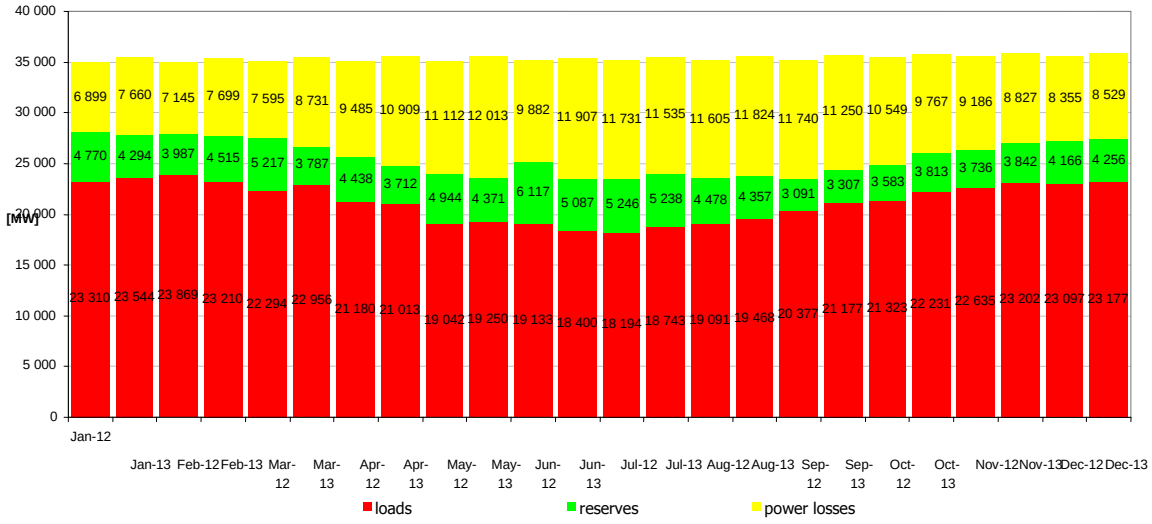
	Morning peak		Evening peak	
	Capacity reserve [MW]	Reserve/demand [%]	Capacity reserve [MW]	Reserve/demand [%]
min	1 393	6,5	1 272	5,4
max	14 094	100,1	12 932	81,0

Source: ERO based on the data provided by PSE SA.

Figure 10 presents average monthly values (in evening peaks on working days) of loads, losses and reserves in the system, for individual months of 2012 and 2013. The presented data shows that in the first half of 2013 the average level of reserves in the system, in relation to recorded load, was slightly lower than in the first half of 2012, whereas in the second half of 2013 the average level was similar to the level observed in the second half of 2012. Basing on the average monthly values for evening peaks on working days presented in the figure 10, it can observed that in the first half of 2013 the average level of losses was slightly higher in comparison to the data from corresponding period of 2012, whereas in the second half of 2013 this value was slightly lower.

Considering the annual average in 2013 in comparison to 2012, there was decrease in capacity reserves of domestic utility power plants and increase in power losses related to general, medium and emergency repairs.

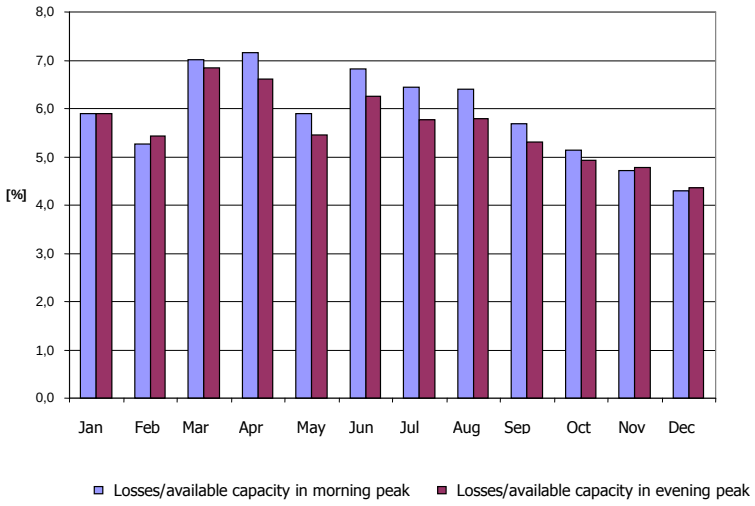
Figure 10. Utility power plants – the comparison of selected aspects of operation in 2012 and 2013 (on the basis of annual average values for evening peaks on working days)



Source: ERO based on the data provided by PSE SA.

Power losses in morning and evening peaks were similar (the biggest difference: 0,7%, occurred in July). The highest power losses in comparison to domestic capacity demand on working days occurred in the evening peak in April 2013, and amounted to 7,2%, and in the evening peak in March 2013 – 6,8% (figure 11).

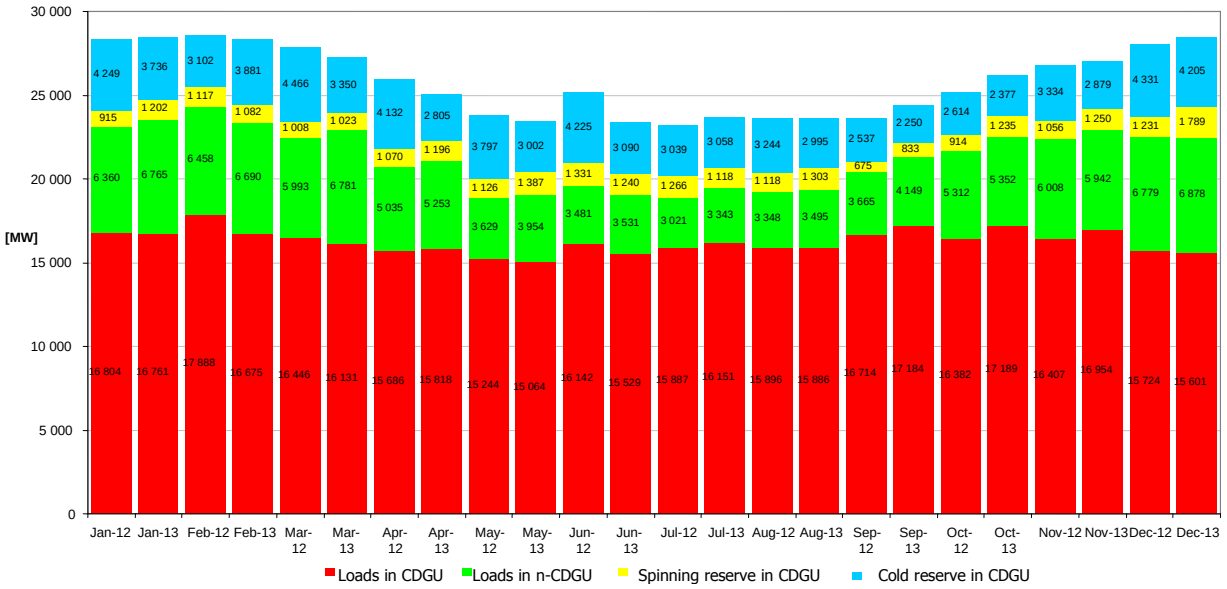
Figure 11. Power losses in relation to available capacity in morning and evening peaks on working days of individual months in 2013



Source: ERO based on the data provided by PSE SA.

The figure below shows available capacity and capacity reserves in domestic power plants in the years 2012-2013. Basing on this data it can be stated that annual average loads in CDGU slightly decreased in comparison to 2012, whereas loads in non-centrally dispatched generating units (n-CDGU) increased by approximately 5,2% in comparison to 2012. While comparing annual average volumes of spinning and cold reserves in CDGU with the loads in CDGU, it should be noted that in case of spinning reserve, the share calculated as a ratio of reserve to load increased from 6,6% in 2012 to 7.6% in 2013, whereas in case of cold reserve it decreased from 22,2% to 19,4%.

Figure 12. Available capacity and power reserves in domestic power plants available to TSO in 2013 in comparison with 2012 - monthly average values for daily peak demand in the country



Source: ERO based on the data provided by PSE SA.

The security of electricity supply is a complex issue, which covers both short-term and long-term activities. The process of monitoring the security of supply carried out by the President of ERO includes i.a. obtaining and analysing information on current functioning of electricity system.

In course of monitoring, particular attention is paid to the ability to cover current demand for electricity and power, operational security of electricity system as well as availability of facilities, including generation units. Similarly to 2012, the volume of installed capacity remained at relatively high level exceeding 38 GW and in 2013 it increased by approximately 1%. With regard to available capacity and power reserves in NES, it should be stated that in 2013 this level was sufficient, from the point of view of the security of NES operation. The available capacity of domestic power plants (calculated on the basis of evening peaks on working days) decreased slightly – by approx. 0,3%. However, it should be taken into account that maximum power demand in 2013 was slightly lower than in 2012 (by about 4,2%), which significantly affects the security of electricity supply.

At the same time, it should be noted that under the Energy Law Act any energy undertaking involved in generation of electricity in the source of total installed capacity not lower than 50 MW is obliged to report to the President of ERO on its investment plan for the next 15 years, and to update this plan every three years. Also, the electricity transmission system operator prepares development plan in the scope of meeting current and future demand for electricity for a 10-year period, which is updated every three years. Hence, monitoring of the security of electricity supply is extended to a long-term horizon.

In terms of ensuring security of electricity supply, additional activities may also be significant, like those connected with i.a. modification of rules for operational capacity reserves calculation and settling in order to develop support mechanism for maintaining adequate capacity surplus in the system. Relevant solutions were included in the update sheet of Transmission Network Code, drafted by PSE SA and approved by the President of ERO at the end of 2013.

Investment projects related to cross-border infrastructure

The investment projects related to interconnectors, which were included in the development plan of PSE SA in the scope of covering current and future capacity demand for electricity for the years 2010−2025, are listed below.

Construction of 400/220/110 kV Ołtarzew substation
Installation of TR 400/220 kV, 500 MVA in Ołtarzew substation
Installation of TR 400/220 kV 500 MVA in Ołtarzew substation
Installation of TR 400/110 kV 330 MVA in Ołtarzew substation
Construction of 400 kV Narew-Łomża-Ostrołęka line
Extension of 220/110kV Ostrołęka substation with 400kV switchboard
Installation of TR 400/220 kV 500 MVA in Ostrołęka substation
Installation of TR 400/110 kV 450 MVA in Ostrołęka substation
Construction of double-track 400 kV Ełk-Łomża line
Extension of 220/110kV Ełk substation with 400kV switchboard
Installation of TR 400/110 kV 330 MVA in Ełk substation
Construction of 400 kV Siedlce Ujrzanów-Miłosna line
Construction of 400/110 kV Siedlce Ujrzanów substation – I stage
Extension of 400 kV switchboard in 400/110kV Narew substation
Construction of 400 kV Płock-Olsztyn Mątki line
Extension of 400/110 kV Olsztyn Mątki substation
Construction of Łomża 400 kV substation
Construction of double-track 400 kV Ostrołęka-Stanisławów line with a partial use of existing 220 kV Ostrołęka-Miłosna line
Construction of 400 kV or 400/110 kV Stanisławów substation
Construction of single-track 400 kV Kozienice-Siedlce Ujrzanów line
Construction of Ełk-Polish border line
Installation of phase shifters at Krajnik-Vierraden line
Installation of phase shifters at Mikułowa-Hagenwerder line
Construction of Plewiska-Polish border line towards Eisenhuettenstadt – preparatory works
Modernization and extension of 400/220 kV Krajnik substation
Extension of 400/220/110 kV Kozienice substation
Modernization and extension of 400/220/110 kV Mikułowa substation
Extension of 400/110 kV Płock substation
Re-commissioning of 750 kV Rzeszów-Chmielnicka (Ukraine) interconnector

The list of investments in construction and extension of interconnections is included in the Ten Year Network Development Plan 2012 (TYNDP 2012).

3.3.2. Monitoring investments in generation capacities in relation to SoS

According to Article 23, paragraph 2, point 19 of the Energy Law Act, the President of ERO is obliged to collect the data concerning existing, being under construction or planned energy infrastructure in the sectors of:

1) natural gas and electricity, including electricity from renewable sources, except for the infrastructure for production of electricity from agricultural biogas,
2) liquid bio-fuels, referred to in the Act on Bio-fuels

– in the scope determined in points 2-4 of the Appendix to the Council Regulation (EU, Euratom) No. 617/2010 of 24 June 2010 concerning the notification to the Commission of investment projects in energy infrastructure within the European Union and repealing Regulation (EC) No 736/96[20)].

In the view of the above, on 22 April 2013, the President of ERO published Information No. 12/2013 on collecting information on existing, being under construction and planned energy infrastructure, and informed energy undertakings about the obligation to submit the required data.

Moreover, on 6 May 2013 the President of ERO sent letters to nineteen energy companies, requesting the submission of information on existing, being under construction and planned energy infrastructure related to generation units in thermal power plants with installed capacity (power of generators) equal to or exceeding 100 MW_e.

[20)] OJ EU L 180/7 of 15.07.2010, "regulation 617/2010".

According to information received from energy undertakings having generation units in thermal power plants with installed capacity exceeding or equal to 100 MW_e, as on 31 March 2013, more than 2 200 MW was under construction, whereas energy infrastructure planned for 2013−2018 amounted to more than 2 500 MW. On the other hand, installations planned for decommissioning in the period 2013−2018 had capacity of about 3 200 MW.

Pursuant to Article 23, paragraph 2, point 19 of the Energy Law Act, collected data was submitted to the Minister of Economy, who is the competent authority in terms of notification to the European Commission of the information on energy infrastructure, referred to in regulation 617/2010.

Furthermore, monitoring of the generation capacities performed by the President of ERO is also based on 15-year investment plans of electricity generators, submitted to the President of ERO every two years (according to current provisions of the Energy Law Act) by energy undertakings involved in generation of electricity in the sources of total installed capacity not lower than 50 MW. The latest review of security of electricity supply was performed by the President of ERO in 2011 and its results were described in detail in National Report 2012. Next evaluation will be conducted in 2014.

3.3.3. Measures to cover peak demand and electricity shortfalls of one or more suppliers

The President of ERO has a competence to announce, organize and conduct tenders for the construction of new electricity generation capacities or implementation of initiatives reducing the electricity demand. It should be underlined that such actions may be conducted in case of possible long-term threat to security of electricity supply, after concluding, by the minister in charge of economy on the basis of the report prepared and submitted to the European Commission every two years, that electricity generation capacities, existing or being under construction, do not ensure long-term security of electricity supply. Prior to announcing the tender, the President of ERO agrees, with the minister in charge of public finance and with other competent public authorities, the economic and financial instruments enabling the construction of new electricity generation capacities or implementation of initiatives for reducing the electricity demand on preferential terms. The President of ERO concludes with the tender winner an agreement determining, in particular, the obligations and responsibilities of the participant, types of financial and economic instruments and the rules for settling the financial support resulting from those instruments. The detailed requirements related to the content of the tender documentation, as well as terms and conditions of organizing and conducting the tender are described by the minister in charge of economy in a regulation.

So far, there have been no circumstances justifying the announcement of such tenders. The value of capacity increase is determined on the basis of information presented by PSE SA to the EC in the process of the selection of PCIs.

With regard to other measures aimed at covering peak demand and handling the cases of shortfalls of electricity supply from one or more electricity providers, those measures are determined by the minister in charge of economy, as the authority responsible for supervision of the security of supply in gaseous fuels and electricity, and of the national electricity systems functioning to the extent stipulated in the Energy Law Act. In particular, those actions are determined in the energy policy, drafted by the minister in charge of economy. "Energy Policy of Poland until 2030", adopted by the resolution of the Council of Ministers on 10 November 2009, is currently binding.

4. THE GAS MARKET

4.1. Network regulation

4.1.1. Unbundling

Designation and certification of transmission system operators

Pursuant to the provisions of the Energy Law Act, transmission system operators are designated by the President of ERO by means of decision issued:

1) following an application submitted by the owner of network or installation,
2) ex-officio, in case when the owner did not submit an application for appointing system operator or when the application submitted by the owner was refused.

The Energy Law Act provides than only one gas transmission system operator can be appointed in the territory of the Republic of Poland and that this operator acts as a joint-stock company, whose sole shareholder is the State Treasury. At the same time, the owner of transmission network or an entity with which the owner concluded an agreement entrusting this entity with performing the tasks of gas transmission system operator with the use of network or installations owned by it, can act as the transmission operator.

In reference to the above-mentioned regulations, in 2013 there was one gas transmission system operator – OGP Gaz-System SA. This company has been carrying out the tasks of gas transmission system operator, under the decision of the President of ERO, since 2006. OGP Gaz-System SA is a company wholly owned by the State Treasury and the owner of transmission assets on which it has been carrying out the business activity in the scope of gaseous fuels transmission, under a licence issued by the President of ERO. As a result of the amendment to the Energy Law Act, the ownership supervision over the company is performed by the Minister of Economy.

Since 17 November 2010, OGP Gaz-System SA, under the decision of the President of ERO, has also been acting as the TSO on the Polish section of the Yamal-Western Europe pipeline, owned by EuRoPol Gaz SA, an energy undertaking holding a licence for the transmission of gaseous fuels.

Due to the finalisation of the process of implementing directive 2009/73/EC into the Polish law order, the certification procedure for transmission system operators, including an extended procedure for certification of transmission system operators in reference to entities controlled by an entity with its registered office in third country, was introduced into the Energy Law Act. Pursuant to the provisions of law, an entity that received a decision on granting certification of independence from the President of ERO can be designated as the transmission system operator. Prior to granting the certification of independence the President of ERO is obliged to carry out a proceeding to examine whether the candidate for an operator, or the operator, fulfils the criteria ensuring that it would be acting fully independently. At the same time the legislator adopted a solution pursuant to which decisions on appointment of the transmission system operator, issued prior to the entry into force of the Amending Act, remain in force.

Two models of transmission system operators' functioning were implemented into the Act: ownership unbundling (OU) and independent system operator (ISO). Under ISO model transmission system may remain the property of the vertically integrated undertaking, but it has to be managed by a separate undertaking. At the same time ISO model may be applied only if on 3 September 2009 the owner of transmission system was a part of vertically integrated undertaking. However, in case of providing transmission services with the use of interconnector constituting new infrastructure, i.e. the construction of which was not completed until 4 August 2003 or was started after that date, the rules provide for a procedure of exempting from the obligation to meet the independence criteria and issue consent to entrust with the performance of the transmission system operator's tasks.

In reference to OGP Gaz-System SA company, in relation to operatorship on its own networks, the ownership unbundling (OU) model shall be applied, whereas with regard to networks that do not constitute a property of OGP Gaz-System SA, i.e. the Polish section of the Yamal-Western Europe pipeline – the independent system operator (ISO) model.

Issues related to the proceeding aimed at granting operators the certification of meeting the independence criteria were regulated in Articles $9h^1$ and $9h^2$ of the Energy Law Act, added by the

Amending Act. At the same time, in accordance with the interim provision prescribed in Article 14, paragraph 1 of this Act, the owner of the transmission network or an energy undertaking referred to in Article $9h^1$, paragraph 2, point 1 of the Energy Law Act are obliged to apply for a certification of independence referred to in Article $9h^1$, paragraph 1 of this Act, within six months from the date of entry into force of this Act. In addition, according to the law, the decisions on the appointment of the transmission system operator issued prior to the entry into force of the Amending Act remain in force.

Until 31 December 2013 no application to grant the certification of independence of the gas transmission system operator was submitted to the ERO.

Unbundling of distribution system operators

In the amended Energy Law Act new rules of unbundling of distribution system operators (DSOs) were established, aimed at ensuring effective separation of distribution activity from the activities connected with extraction or supply of natural gas.

In the light of Article 9d of the above-mentioned Act, gas DSO functioning within the structure of vertically integrated undertaking is obliged to achieve independence in regard to its legal and organizational form, as well as decision-making. DSO shall be fully independent from other forms of activity, not connected with distribution of gaseous fuels.

Furthermore, paragraph 1h of the called Article states that the operators mentioned above are neither allowed to carry out business activity connected with production, generation or supply in gaseous fuels or electricity, nor to perform it on a basis of an agreement for the benefit of other energy undertakings. At the same time, the provisions impose on DSO an obligation to include, in the articles of association or company's deed, rules enabling Members of the Board to undertake independent actions.

Since the entry into force of the Amending Act, gas distribution system operators functioning within vertically integrated undertaking serving more than 100 000 customers connected to its network and selling more than 100 mcm of gas annually, have been obliged to obtain independence in regard to their legal and organisational form, as well as decision-making. The Amending Act extended the statutory exemptions from the DSO unbundling obligation. In the light of new regulations, obligation of legal and organizational unbundling of gas DSO applies neither to vertically integrated undertakings serving less than 100 000 customers connected to the gas distribution system owned by this undertaking, if the annual sale of gas by the undertaking does not exceed 150 mcm, nor to vertically integrated undertaking serving less than 100 000 customers connected to the gas distribution system owned by the undertaking, if its sale concerns gaseous fuels other than high-methane or nitrogen natural gas, including liquefied natural gas, supplied through the gas network.

The Amending Act provides that ensuring fulfilment of the independence criteria by the DSO, referred to in the amended Article 9d of the Energy Law Act, is required within 6 months from the date of entry into force of this Act, i.e. until 11 March 2014.

Failure to comply with the unbundling requirements is sanctioned with a fine. In the light of Article 56, paragraph 2, points 20 and 21 of the Energy Law Act, a fine shall be imposed on anyone who does not comply with the conditions and criteria of independence of the system operator, referred to in Article 9d, paragraphs 1-2, as well as anyone who does not enable the system operator designated on their network to meet the conditions and criteria of independence, referred to in Article 9d, paragraphs 1-2. The fine in both above-mentioned cases cannot be lower than 1% and higher than 15% of the revenue of the fined undertaking acquired in the preceding fiscal year. The fines in the above-mentioned cases are imposed by the President of ERO. Regardless of the above-mentioned financial penalty, the President of ERO may impose a fine on the head of an energy undertaking in the amount not higher than 300% of his/her monthly salary.

On 31 December 2013, 40 system operators appointed by the President of ERO, including one legally unbundled, were carrying out business activity in the scope of distribution of gaseous fuels.

One of the above DSOs, being subject to the DSO unbundling, was established as a result of the consolidation process within the distribution segment of PGNiG SA Capital Group, and since 1 July 2013 has been operating in the territory of the Republic of Poland in the place of six legally unbundled DSOs.

Storage System Operator

In the amended Energy Law Act new rules of storage system operator's (SSO) functioning were established, by introducing an obligation of legal and organisational unbundling of the SSO.

The Amending Act provides that SSO shall be enabled to fulfil the criteria of independence, referred to in amended Article 9d of the Energy Law Act, within 6 months from the date of entry into force of this Act, i.e. until 11 March 2014.

In 2013 the tasks assigned to SSO were carried out by Operator Systemu Magazynowania Sp. z o.o. Operator's functions were performed by the SSO with the use of storage installations UCGS Mogilno, UGS Husów, UGS Wierzchowice, UGS Strachocina, UGS Swarów and UGS Brzeźnica.

Natural Gas Liquefaction System Operator

Until 30 June 2013 there had been two Natural Gas Liquefaction System Operators who had been performing DSO functions simultaneously. As a result of consolidation process, since 1 July 2013 the function of the Natural Gas Liquefaction System Operator has been performed by one entity, carrying out its activity with the use of liquefied natural gas installations and acting as DSO at the same time.

Compliance Programmes

Legal basis for the development of Compliance Programmes, as well as the guidelines on the content of submitted reports on Programme's execution are described in chapter 3.1.1. It shall be mentioned that hitherto obligation to develop them by the transmission system operators was removed because in case of TSO (OGP Gaz-System SA is a company that is not a part of vertically integrated undertaking, and is in 100% owned by the State Treasury) the ownership unbundling in practice turned out to be sufficient to ensure non-discriminatory treatment of system users. The legislator has, however, introduced an obligation to develop Compliance Programmes by storage system operators, being part of a vertically integrated undertaking. Subject to this obligation is therefore Operator Systemu Magazynowania Sp. z o.o. (hereinafter: „OSM Sp. z o.o."), which is a company in 100% dependent from PGNiG SA. In 2013 OSM Sp. z o.o. developed and implemented Compliance Programme that was in 2014 submitted to the President of ERO for approval. Compliance Officer in OSM Sp. z o.o. will be obliged to submit, to the President of ERO, a report on the execution of Compliance Programme every year, starting with the report for 2014.

Obligation to submit Compliance Programme for approval, as well as to submit reports on its execution, concerns also Polska Spółka Gazownictwa Sp. z o.o., which is the only big DSO in Poland. As it turns out from the execution report submitted by this DSO, in 2013 there was one case of infringement of the rule of equal and non-discriminatory treatment of system users. As a result of the conducted administrative proceeding, the President of ERO recognised that DSO infringed Compliance Programme but, due to the fact that the infringement was unintentional and characterized by a negligible degree of harmfulness of the committed action, decided not to impose a financial penalty on the DSO.

Apart from the above-mentioned case no further infringements happened, as well as no remarks, complaints or motions concerning Compliance Programme were submitted in 2013.

4.1.2. Technical functioning

Balancing services

On the natural gas market, rules of system balancing and congestion management are developed by the TSO and DSO in accordance with the Energy Law Act and are subject to approval by the President of ERO in the Network Codes (NC).

Given the advanced works on the draft Network Code on Gas Balancing of Transmission Networks (NC BAL), works were launched on implementing into the national system solutions that enable the use of market balancing mechanisms by the TSO.

Changes in the Transmission Network Code

Since the beginning of 2013, significant changes in terms of balancing have been implemented to the TNC. Virtual trading points were introduced that also allow for concluding transactions on the balancing market. Introduction of the balancing market platform, on which market participants may submit bids for system services needed by OGP Gaz-System SA for system balancing, was provided for. Within the balancing market, off-take of gaseous fuel can take place at both virtual point and certain physical point ("localised product"). Works on the implementation of the balancing market platform had been carried out until the end of 2013. This platform was launched at the beginning of 2014.

Among the general principles characterizing the balancing of the Polish gas system, it should be indicated that the balance is calculated for each day, and the imbalance is settled after each gas day. Daily imbalance limit is set at 5%. Balancing areas cover also the distribution network.

Security and reliability standards, quality of service and supply

One of the tasks of the President of ERO is monitoring of the gas system functioning, i.a. in the scope of the security of gas supply. This task has been formulated in general way – a statutory provision in which the obligation in question is stipulated does not mention specific actions, as it is in the case of Article 5 of directive 2009/73/EC.

In terms of security and reliability of supply, the President of ERO shall review the way of carrying out, by the gas system operators, of their statutory duties and evaluate their performance in terms of ensuring the correct operation of the system, in accordance with the criteria set out in the Network Code. The conducted control also takes place within the analysis of the reports on execution of the development plans, including monitoring of the projects aimed at ensuring the continuity of transmission and distribution services, while maintaining the required level of security and reliability, as well as creating conditions for market development. Criteria relevant to the security of supply, taken into account in the analysis of investment projects, refer to:

- adaptation of gas system to the new operating conditions resulting from the connection of new sources of gas and new customers,
- possibility to diversify the directions and routes of gas supply to Poland,
- reconstruction or modernization of the existing gas infrastructure,
- adapting systems to binding standards, legal and technical regulations,
- elimination of the so-called bottlenecks in the networks.

Monitoring is based on the annual reports on development plans' execution, and their comparison with the agreed development plan as regards the list of investments and expenditures that the undertaking planned to bear and in consequence incurred, and quantitative data relating in particular to the number of customers and the amount of supplied gas – planned and executed. In addition, the condition of network security can be evaluated on the basis of information on the age structure of assets, as well as the number of interruptions and breakdowns contained in the above-mentioned reports. The findings of the aforesaid monitoring shall be taken into account in further regulatory activities of the President of ERO, in particular at the stage of agreeing development plans.

Furthermore, controlling of the security standards also includes controlling if the relevant entities fulfil the obligation to maintain the obligatory natural gas reserves, as well as reporting by the operators on the applied limitations in gas supply.

Controlling the quality standards of customer service and quality parameters of gaseous fuels is supposed to protect consumers from lowering, by the gas undertakings operating on the market, both the quality of delivered fuel (including i.a. its combustion heat), the standards of provided services (supply interruptions) and the standards of customer service.

Quality parameters of gaseous fuels, as well as the quality standards of customer service, including the method of satisfying complaints, have been regulated in the Regulation of the Minister of

Economy of 2 July 2010 on specified conditions of gas system operation[21]. According to this regulation, gaseous fuels supplied by the gas undertakings shall meet certain quality parameters. At the same time, the regulation imposes on the TSO and DSO obligation to perform tests of particular quality parameters.

Controlling the quality of gaseous fuels is conducted at the request of customer. In addition, in case of objections to the quality of supplied gaseous fuels, the customer may request examination of the measurement system operation in an independent testing laboratory accredited by a certification body, pursuant to the rules and procedures specified in the Act of 30 August 2002 on the compliance assessment system[22]. In case of irregularities, the energy undertaking shall cover the costs of tests, as well as shall adjusts the settlement for the supplied gas at his own cost, under the terms and deadlines set out in the tariff.

In the current practice, objections came mainly from household customers, and intervention of the President of ERO consisted mainly in calling the TSO and DSO to submit reports on the quality of natural gas (including average monthly combustion heat) in this part of the gas network to which the installation of the complaining customer was connected. In some cases, the results of analyses carried out by research institutes and scientific units were also used. The Regulator does not have neither a laboratory, nor adequate equipment, to conduct independent tests of the quality of gaseous fuels.

Regulatory activities of the President of ERO, in the scope of controlling the quality standards of customer service and quality parameters of gas, are also reflected in the process of approving tariffs for gaseous fuels. The President of ERO approves prices and charges contained in the tariff only when they are calculated with taking into account the quality parameters specified in the tariff regulation for gaseous fuels. For failure to meet the quality parameters of gaseous fuels, referred to in the aforesaid regulation, customers are entitled to a compensation determined according to the rules provided for in the tariff. In addition, discounts in charges for the gas supply due to the breach of quality standards of customer service are determined in the tariff. Those charges stem directly from the above-mentioned regulation and shall be calculated on the basis of the tariff. Control of safety and reliability standards of supply and quality standards was also conducted through the transmission system operator's reporting on revenues and costs resulting from TNC. Relevant information about fees and discounts calculated by the TSO on the basis of the II part of TNC are submitted to the President of ERO on a quarterly basis. This information allows for identification and evaluation of cases of failure to comply with the quality parameters of gaseous fuels and restrictions to the supply, introduced due to the reasons attributable to the TSO.

Customers usually do not know their rights when complaining to the Regulator on the activities of gas undertakings. In such cases, they are provided with explanations and information about rights and responsibilities, according to current legal status.

Monitoring time necessary to connect and repair

Monitoring the operation of gas system in reference to the conditions of connecting entities to the network and the connection's execution, as well repairs of those networks, is conducted by ERO systematically, i.a. through verification and analysis of information from undertakings, their customers and other stakeholders. The information about interruptions and limitations in gas supply are presented in the table below.

[21] Journal of Laws, No. 133, item 891, as amended.
[22] Journal of Laws, No. 204, item 2087, as amended.

Table 13. Information on interruptions and limitations to gas supplies in the transmission network in 2013

	No.	Interruptions and limitations			
		Duration [min]	Number of affected customers	Average time [min per consumer]	Volume of unsupplied fuel [million mcm]
Downtimes	45	14 285	2	7 142,5	0,149
Scheduled works in progress	139	1 127 728	na	8 113	269,8
Limitations	1	15 060	1	15 060	4,016

Source: ERO.

While comparing the data presented above with the data from previous periods, it should be noticed that the number of recorded downtimes in the transmission is lingering at a level approximate to the previous year. A significant drop in limitations to gas supplies shall also be noticed. In 2013 one case of limitation to gas supply was recorded, concerning PKN Orlen SA and lasting from 19 January 2013 until 30 January 2013. Furthermore, the investment works conducted by the TSO influenced the decrease in the number of downtimes only to a limited extent, what may be caused by the scope of works on the new projects. Nevertheless, the current situation requires improvement and the works on maintaining the existing network in the proper technical condition require evaluation.

The level of the transmission network development translates also into problems with ensuring supplies to the customers applying for connection to the distribution networks in periods of increased demand for gas. This, in turn, results in concluding the so-called interruptible supply contracts and refusing to connect to the network due to technical reasons. The network investment needs are also illustrated by data on the average duration of interruptions in gas supplies per customer connected to the transmission network, which in 2013 amounted to 7 142,5 minutes per customer (see table 14). This time was considerably longer than in 2012.

Table 14. Duration of interruptions in gaseous fuels supply to customers connected to the transmission and distribution networks in 2013

Year	Interruptions					
	Downtimes			Scheduled works in progress		
	Duration	Number of affected customers	Average time	Duration	Number of affected customers	Average time
	[minutes]	[number]	[minutes per customer]	[minutes]	[number]	[minutes per customer]
2005	43 341 809,10	109 571	395,56	79 411 583,60	194 219	408,88
2006	89 518 594,80	123 361	725,66	76 721 978,40	153 386	500,19
2007	46 707 750,34	89 218	523,52	78 061 416,00	153 083	509,93
2008	110 416 057,40	104 108	1 060,62	131 395 059,60	130 673	1 005,53
2009	81 563 843,00	102 763	793,71	130 628 780,40	151 273	863,53
2010	27 236 695,80	117 616	231,60	55 470 326,40	162 637	341,07
2011	134 905 821,96	136 307	989,72	162 790 249,80	183 548	886,91
2012	102 370 430,40	91 931	1 113,56	159 639 406,18	166 928	956,34
2013	63 372 633,60	105 730	599,38	65 364 360,60	156 603	417,39

Source: ERO.

In 2013 the President of ERO monitored the time required by energy undertakings to complete connection to the gas network. Information on the number of connections to the network of OGP Gaz-System SA and the networks of distribution system operators that were subject to the unbundling obligation is presented in the table below.

Table 15. Information on the connections to the gas network completed in 2013

	Number of connections completed in 2013	Number of connections to the network not completed in 2013	Number of connections with exceeded execution time	Standard time of executing connections to the gas network
OGP Gaz-System SA	10	4	–	33-months - for end-users in group A 22-months - for end-users in group C in terms of transmission and distribution
Distribution System Operators*	40 320	4 685	6 639	5-9 months

*Distribution system operators falling under legal unbundling obligation.

Source: ERO.

Information presented in the table show a high number of connections to the gas network executed by DSOs and the TSO in 2013. At the same time, the number of connections to the distribution network, which exceeded the scheduled execution time, did not rise above 17%. Another important factor is the time of completing a connection to the network, which in case of customers connected to the distribution network was between 5 and 9 months. This time depended on the technical conditions required for the completion of the connection aimed at supplying gaseous fuel to the connected object. The above shows that the completion time is distinctly shorter in case of tasks comprising only the construction of gas connector, and is lengthened when the works are connected with the construction of both pipeline and connector, or connector with gas station. It may indicate long and time-consuming procedures related to obtaining permits required for the network construction. The collected data confirm the need for legislative activities aimed at simplification of the investment process.

At the same time, on the basis of information obtained during gas system monitoring by ERO, in reference to conditions for connecting entities to the network, the main reasons for missing the deadline for network connection provided for in the agreement were identified, which are, among others:

- obtaining required administrative and legal decisions (i.e. difficulties in obtaining the permits of property owners for localisation and construction of a pipeline/connector, often related with a necessity to obtain legal title to the estate on which the network or gas installation was supposed to be built; time-consuming administrative or court proceedings related to determining utility easement),
- customer's delays in meeting the deadlines set in the connection agreement,
- unfavourable weather conditions causing the delays in outdoor works.

The tasks imposed on the Regulator were also carried out through monitoring if network companies fulfilled their obligation to notify the President of ERO of every case of refusing connection to the gas network. In addition, the Regulator also settles disputes regarding refusals to conclude connection agreement and considers complaints about the conditions for connecting to the network and their execution, as well as conducting repairs of those networks. In 2013 ERO received notices from gas undertakings informing about issuing 6 322 refusals to connect to the gas network. Such cases are subject to the Regulator's monitoring. Detailed data in this scope are presented in table 16.

Table 16. Number of gas network connection refusals

Item	Name of undertaking	Number of refusals in 2013
1	OGP Gaz-System SA	5
2	Distribution System Operators of PGNiG SA Capital Group	4 006
3	Distribution System Operators not obliged to be legally unbundled	44
	TOTAL	4 055

Source: ERO.

Information presented in the above table denote a relatively low number of refusals of transmission network connections, with a predominant number of refusals to connect to the distribution network. It is connected with different technical conditions, including the localization of the applicant (distance from the network or localization in the area not covered by the development plan), and significantly higher number of consumers applying for connection to the distribution network than to the transmission network. Within monitoring of undertakings in the scope of fulfilling their obligation to notify the President of ERO of every case of refusing connection to the gas network, the undertakings indicated the following as the main reasons for refusal: lack of economic conditions (over 70%) and lack of technical conditions (almost 30%). Moreover, the lack of technical conditions for connection was related to the insufficient technical network capacity in the given area (bottlenecks), where the lack of transmission network expansion determines the further development of distribution infrastructure and inability to connect new customers. The remedy for the present situation are therefore further investments in gas infrastructure (in accordance with the development plans agreed with the President of ERO), which should contribute to the development of transmission and distribution systems in Poland, as well as influence the optimization of their work and technical capacity extension, including supplying gas to new directions.

Monitoring access to storage, linepack and other ancillary services, monitoring correct application of criteria that determine model of access to storage

In 2013, Operator Systemu Magazynowania Sp. z o.o. was the entity carrying out the duties assigned to SSO. The President of ERO completed monitoring of its services, which implied that the company properly performed tasks assigned by the law.

Basing on the above-mentioned monitoring, it can be concluded that SSO provided storage services in accordance with the generally applicable law and procedures contained in the Rules of Providing Storage Services (RPSS). In order to perform services, storage installations of CUGS Mogilno, UGS Husów, UGS Wierzchowice, UGS Strachocina, UGS Swarów and UGS Brzeźnica were operated. Total storage capacity at the end of 2013 was 2 090,99 mcm. At the end of the injection season, the filling level of storages was 99.5%.

OSS exercised TPA rule by providing storage capacity to third parties within the framework of long-term contracts (371,5 mcm, including 256,5 mcm on an uninterruptible basis and 115 mcm on interruptible basis) and short term (21,5 mcm, only under interruptible conditions). Those services were offered in the form of bundled units, flexible bundles and unbundled offers. In 2013 investment projects aimed at creating new storage capacities were undertaken. A new CUGS Kosakowo storage facility is being build and four gas storage facilities are in the extension process.

786 packets were allocated in accordance with the TPA principle. In 2013, applicants submitted a total of eight requests for conclusion of contracts for the provision of storage services, including one by the gas TSO. All requests were accepted. There was no storage capacity, which would be exempted from the third party access.

SSO carried out activities in the field of preventing accumulation of storage capacity reserves. By assessing the use of ordered storage capacity, unused capacities and nominal injection capacities were made available as part of daily injection services. In addition, the secondary trading in storage capacity was enabled, although in 2013 no request for sale of ordered storage capacity on the secondary market was submitted to the SSO. Moreover, in 2013 one of the storage service customers resigned from the purchased storage capacities for the sake of establishing and maintaining of obligatory reserves. SSO conducted the procedure of offering those capacities for creation of obligatory reserves, but due to lack of market interest, those capacities were made available and allocated as part of standard procedures.

Information disclosure obligations are performed by the SSO pursuant to Article 19 of the Regulation (EC) No 715/2009 of the European Parliament and the Council of 13 July 2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No 1775/2005[23)]. Data in particular on the offered services and applied terms of agreements, as well as information regarding current and planned work of Underground Gas Storage facilities (including the filling level at the beginning and end of storage day, the daily amount of the injected and off-taken gaseous fuel, uncontracted storage capacity, planned and unplanned downtimes and unused

[23)] EU OJ L 09.211.36, hereinafter: „regulation 715/2009".

capacity available within the daily service), as well as information on the procedures for new storage capacity allocation, are disclosed to the public.

Monitoring the implementation of safeguard measures

In 2013 the President of ERO monitored the implementation of safeguard measures in case of sudden crisis situation on the energy market, a threat to the physical security or safety of persons, equipment, installations or system integrity, through verification of emergency plans for restrictions in natural gas consumption (hereinafter: „restriction plans"), submitted for approval by the transmission, distribution and combined system operators.

Restrictions in natural gas consumption

Pursuant to the Act of 16 February 2007 on Stocks of Crude Oil, Petroleum Products and Natural Gas and the principles of proceeding in circumstances of a threat to the fuel security of the State and disruption on the petroleum market[24)], if, in the assessment of gas transmission system operator or gas combined system operator actions referred to in Article 50 (actions undertaken by energy companies performing business activity in the scope of importing gas for its further resale to the customers, as well as by entities ordering the provision of transmission or distribution of natural gas) and Article 52 (release of obligatory reserves of natural gas) of the Act on Stocks, will not lead to restoration of fuel security of the State in reference to natural gas, the operator shall, on its own initiative or on the basis of information obtained from the energy undertaking performing business activity in the scope of importing gas for its further resale to the customers, notify the minister in charge of economy the need to introduce restrictions to the natural gas consumption, according to the restriction plans, referred to in Article 58, paragraph 1 of the Act on Stocks. The restrictions of the maximum hourly and daily consumption of natural gas can be introduced in case of: threat to the fuel security of the country, unexpected increase in natural gas consumption by customers, disruptions to natural gas supply, failure in networks of gas system operators, threat to the security of system operation, threat to the people's safety, threat of substantial material losses, or the necessity to fulfil international obligations by Poland.

The restrictions in natural gas consumption can be introduced by the Council of Ministers at the request of the minister in charge of economy, through a regulation, for a fixed period of time in the whole territory of Poland or its part, while taking into consideration the significance of customers to the economy and the functioning of the State, particularly the tasks performed by those customers and the period for which the restrictions will be introduced.

The gas transmission, distribution and combined system operators or energy undertakings acting as operators, are obliged to develop plans of introducing restrictions to natural gas consumption. The plans determine the maximum hourly and daily volumes of natural gas consumption for individual customers connected to the network, for particular supply levels (in levels from 2 to 10). The entities obliged to develop the restriction plans inform the customers about the maximum volume of natural gas consumption set for them in the approved restriction plans, for the particular supply level. Those volumes, set forth by the approved restriction plans, become an integral part of sale agreements, transmission or distribution agreements and common service agreements.

The restriction plans are updated annually and are submitted for the approval of the President of ERO by 15 November of a relevant year.

Pursuant to the Ordinance of the Council of Ministers of 19 September 2007 on the manner and methods of implementing restrictions to the natural gas consumption[25)], the restrictions apply to the customers who simultaneously meet the following conditions: they off-take natural gas at the exit point from the gas system, if the sum of contracted capacities set forth in the contracts referred to in Article 5, paragraph 2, point 2 and section 3 of the Energy Law Act, amounts to at least 417 cubic metres per hour for this exit point, and they are included in the restriction plans. The restrictions resulting from the aforementioned plans do not apply to households consumers.

[24)] Journal of Laws of 2012, item 1190, as amended, hereinafter: "Act on Stocks".
[25)] Journal of Laws, No. 178, item 1252.

During the time when the restrictions are in force, gas transmission system operator:

- fulfils the obligations related to introducing restrictions by determining and disclosing to the public the gas supply levels, according to the restriction plans,
- coordinates the actions of energy undertakings performing business activity in the scope of natural gas trading, other gas system operators, operators of natural gas storage systems, gas liquefaction system operators, in order to ensure the security of the gas system and implementation of restrictions introduced on the basis of the Act on Stocks,
- has at its disposal the total volume and capacity of natural gas storage and natural gas liquefaction installations connected to the gas system, as well as releases obligatory reserves of natural gas.

Within approving the restriction plans for the 2013/2014 season, the President of ERO issued, in 2013, 33 decisions on the approval of the restriction plan, whereas the restriction plans of fundamental importance for the functioning of the gas system - the plans developed by OGP Gaz-System SA, was approved with the decision of 5 December 2013, and the restriction plan developed by the gas distribution system operator PSG Sp. z o.o. (an entity created by the consolidation of six distribution companies of the PGNiG SA Capital Group) – with the decision of 27 November 2013. Other decisions concern restriction plans developed by gas distribution system operators conducting activity in a significantly lower scale.

In 2013 the restrictions to natural gas consumption were not implemented.

Obligatory reserves of natural gas

Under the Act on Stocks, the President of ERO, through a decision, verifies or determines the obligatory reserves of imported natural gas in the amounts meeting – in the period from 1 October 2013 until 30 September 2014 – at least 30-day average daily gas imports, performed by an undertaking conducting business activity in the scope of importing natural gas for its further resale to customers. The aim of maintaining the obligatory reserves is to prevent the negative effects of disruptions in the natural gas supply, enabling rapid interventions allowing to compensate deficiencies in the balance of gas supply to the market.

The verification of the indicated reserves concerns undertakings which already conduct the activity in the scope of importing gas for its further resale to customers, while determining the volume of those reserves refers to entities that are starting the activity in the scope of importing gas for its further resale.

In the first case, an undertaking sets the level of the obligatory reserves of natural gas on the basis of the volume of its imports in the period from 1 April of the preceding year until 31 March of the year in question, on the basis of the statistical reports prepared by the company. The undertaking is obliged to submit the information about determined level of reserves to the President of ERO by 15 May of a relevant year.

In the second case however, the level of obligatory reserves is determined by the President of ERO:

- for the period from the date of starting import until 30 September, on the basis of the undertaking's declaration concerning the planned import volume,
- from 1 October until 30 September of the following year, on the basis of the average import volume in the previous period of conducting the activity.

In 2013 twelve proceedings on determining or verifying the obligatory reserves of natural gas were conducted, three of which were initiated at a request of a party, while in nine cases the President of ERO initiated the proceeding ex-officio. From among the conducted proceedings, two ended with issuing a decision on the verification of the obligatory reserves of natural gas determined by the undertaking, in three cases the President of ERO issued a decision on the determination of the obligatory reserves, one proceeding was discontinued.

4.1.3. Network and LNG Tariffs for connection and access

Gas undertakings holding a licence for transmission, distribution or storage of gaseous fuels, liquefaction of natural gas or regasification of the liquefied natural gas perform the aforesaid activities on the basis of tariffs set by themselves and approved by the President of ERO.

The prerequisite for approval of a tariff is its compliance with the provisions of the Energy Law Act and secondary legislation to this Act, including in particular the provisions of the Regulation of the Minister of Economy of 28 June 2013 on the specific rules for setting and calculating tariffs and charges in gaseous fuels trading (tariff regulation). The aforesaid regulation adjusted national law to the provisions of regulation 715/2009, in reference to setting and calculating tariffs for the transmission and storage services. However, the regulation did not have a major influence on the tariffs for the above-mentioned services approved in 2013, due to the fact that the rules for calculating those tariffs have been, since 2010, based on the provisions of regulation 715/2009, which – pursuant to Article 288 of the Treaty on the Functioning of the European Union[26)] – apply to energy undertakings that conduct the aforementioned activities in the Member States.

In the tariffs for transmission services, which were approved in 2013, the rates of transmission fees were set as the entry-exit rates. Moreover, the tariffs also included the rules for calculating charges for services offered under short-term contracts (including single-day contracts), the terms and conditions and the rules for calculating charges for the interruptible transmission services, as well as the methods of calculating charges for reverse flow services. The tariff of the transmission system operator OGP Gaz-System SA provided in addition for the rules for settlements in the technological start-up period.

In general, rules for calculating tariffs for the provision of natural gas transmission services (through the networks of OGP Gaz-System SA and EuRoPol Gaz SA) did not change in 2013, in comparison with 2012. Hence, the rates of transmission fees were calculated on the basis of planned justified prime costs and the return on the employed capital, whose calculation rules – albeit not resulting (as in 2012) from the provisions of the tariff regulation – were adopted by the President of ERO for application without any changes.

Calculation of the transmission rates was based on the structure of allocating costs to entry and exit points, identical as in 2012, and the reduction of rates to/from the storage facilities, in comparison to the rates for entry to and exit from the transmission network to points other than storage facilities. The share of fixed charges for the provided transmission services in the total charges for those services increased by further 5% in relation to the tariff approved in 2012, and is currently 85%.

Fixed rates at the entry and exit to/from the transmission system and the entry and exit to/from the underground gas storage facilities increased; the variable rates that are only applicable to exit points from the transmission system other than the underground gas storage facilities were reduced.

Correction factors for the fixed transmission rate for short-term monthly and quarterly contracts executed in the first and third quarter of the calendar year were reduced. OGP Gaz-System SA withdrew from providing transmission services under six-month contracts.

Pursuant to the provisions of the tariff regulation, the rules for settling transmission services provided under interrupted conditions were changed. Currently, the fee for those services is dependent on the actual time during which the service was provided within the settlement period.

In accordance with the provisions of the tariff regulation, the basis for the calculation of the rates of charges for the provided storage services also changed. In addition to the costs associated with the operation of storage facilities, the calculation of the tariffs for the provision of storage services is also based on costs of purchasing capacity at the entry to and exit from the storage facilities from OGP Gaz-System SA, that were previously included in the so-called network rates (for transport), set by the company involved in the trade in gaseous fuels and providing complex service. The tariff for the provision of the indicated services allows for settling uninterrupted and interrupted services, long-term and short-term (monthly, weekly and daily), provided in the form of bundles (including flexible bundle) and separately.

In 2013 the tariff of the SSO has not changed. The tariff approved in 2012 was in force.

The tariff regulation also changed the rules for calculating tariffs for the provision of distribution services. Under its provisions, those rates cover all the costs associated with the supply of gas to the customer, and thus the cost of transporting gas through the transmission pipelines (specifically, the cost of purchasing capacity at exit point from the transmission system owned by OGP Gaz-System SA). Such a system ensures a fixed level of charges for the transportation of gas to the customer regardless of the supplier from whom the gas is purchased, which should facilitate the supplier switching process. This system was introduced to the tariffs of distribution companies already in 2012 in connection with the provisions of OGP Gaz-System SA's TNC approved in July 2012, which provided

[26)] EU OJ C 115/47 of 09.05.2008, hereinafter: "TFEU".

for concluding inter-operators agreements with each of the distribution system operators, the subject of which was the purchase of capacity at the exit points from the transmission network that are entry points to the distribution networks. In 2013 the system was regulated on the legal ground.

On 1 July 2013 a consolidation of distribution companies of the PGNiG Capital Group SA (with a total of 6 272 100 customers connected to their networks) took place. In place of the existing six gas companies (i.e. Górnośląska, Dolnośląska, Karpacka, Mazowiecka, Pomorska and Wielkopolska) a single entity was established, under the name of Polska Spółka Gazownictwa Sp. z o.o. (PSG), which distributes gas to customers. Due to the consolidation of previously separate companies it was impossible to still apply the Regulatory Model for Gas Companies initiated in 2011. In the PSG's tariff, approved on 17 December 2013, the areal diversification of the distribution rates was maintained, and the basis for the calculation of those rates were the primal costs, set at the same level as in the previous tariffs of the above-mentioned companies.

Within proceeding on tariff approval the President of ERO analyses in detail the costs which are the basis for the calculation of fees, ensuring that cross-subsidising between licensed and unlicensed activities, and between different types of licensed activities is not present.

Undertakings involved in the transmission and distribution of gaseous fuels are obliged to conclude network connection agreements with entities applying for connection, on the basis of equal treatment rule, if technical and economic conditions for connection and supply of those fuels exist, and the party demanding the conclusion of the agreement fulfils the conditions for connection and off-take. For connection to the high-pressure network of entities that do not conduct the activity in the scope of gaseous fuels transmission or distribution, its production or extraction, storage of gaseous fuels and liquefaction or regasification of the liquefied natural gas, the fee is equal to ¼ of actual expenditures made for the connection's completion. For connection of the entities performing activities indicated in the previous sentence, the charged fee is equal to the actual expenditure made on the connection's execution. For connection of entities whose equipment, installations and networks are being connected to the low-, medium-, and high-pressure network, the charged fee is set on the basis of rates calculated by the DSOs and contained in their tariffs approved by the President of ERO. The rates are calculated on the basis of ¼ of average annual investment expenditures related to the construction of the network's sections necessary for connecting those entities, determined in the development plan elaborated by the DSO.

The tariffs set by gas undertakings and approved by the President of ERO are published in the Industry Bulletin of ERO within 14 days from the approval date. The gas undertakings adopt the above-mentioned tariffs within the period not shorter than 14 days and not longer than 45 days from the date of their publication.

The decision of the President of ERO approving or denying the tariff approval, can be appealed against, by an undertaking, to the District Court in Warsaw – Court of Competition and Consumer Protection, through the President of ERO within a two-week period from the day of the delivery of that decision.

So far, the possibility to set or approve, by the President of ERO, temporary tariffs for the provisions of transmission and distribution services in case of a delay in setting them by undertakings performing indicated services, as provided for in the provisions of the directive, has not been implemented to the legal rules.

4.1.4. Cross-border issues

Access to cross-border infrastructure, including allocation and congestion management

The responsibilities of the President of ERO include monitoring the gas system functioning in terms of rules of management and allocation of the capacity of interconnectors, in cooperation with the competent authorities of the EU Member States or the member states of the European Free Trade Agreement (EFTA) – parties to the Agreement on the European Economic Area.

In 2013 the President of ERO monitored the cooperation of the transmission system operator OGP Gaz-System SA with the transmission system operators of the neighbouring countries. The cooperation was held on the basis of the concluded inter-operator agreements, i.e. with the Belarussian OAO Biełtransgaz, Ukrainian Ukrtransgaz NAK Naftogaz, German Ontras-VNG Gastransport GMbH and the Czech operator NET4GAS.

At the same time, the procedures for monitoring the transmission capacity allocation at all interconnectors, also the Eastern ones, were ensured. Detailed data on the transmission capacity at the interconnectors of OGP Gaz-System SA are presented in table 17.

Table 17. Transmission capacity at interconnectors of the national transmission system, managed by OGP Gaz-System SA

System operator	Country	Interconnection	Direction of supply	Type of nominations	Unit	Total firm transmission capacity*	Total interruptible transmission capacity	Reserved firm transmission capacity	Reserved interruptible transmission capacity	Unreserved firm transmission capacity	Unreserved interruptible transmission capacity	Completed transmission
ONTRAS	Germany	Lasów reverse	Germany	Hour	mcm/year	-	1 380,46	-	0,00	-	1 380,46	1,461
					GWh	-	14 642,54	-	0,00	-	14 642,54	15,50
ONTRAS	Germany	Lasów	Poland	Hour	mcm/year	1 509,58	1 509,58	1 552,75	20,37	0,00	1 509,58	1 095,60
					GWh	16 012,12	16 012,12	16 470,02	216,06	0,00	16 012,12	11 621,03
ONTRAS	Germany	Gubin (we)	Poland	Hour	mcm/year	17,52	17,52	17,52	0,00	0,00	17,52	4,50
					GWh	185,83	185,83	185,83	0,00	0,00	185,83	47,73
ONTRAS	Germany	Kamminke	Germany	Hour	mcm/year	131,40	131,40	0,00	0,00	131,40	131,40	0,00
					GWh	1 393,76	1 393,76	0,00	0,00	1 393,76	1 393,76	0,00
Net4Gas	Czech Republic	Cieszyn reverse	Czech Republic	Hour	mcm/year	-	587,17	-	0,00	-	587,17	0,002
					GWh	-	6 228,11	-	0,00	-	6 228,11	0,021
Net4Gas	Czech Republic	Cieszyn	Poland	Hour	mcm/year	589,40	587,17	587,17	381,32	2,23	587,17	564,20
					GWh	6 251,77	6 228,11	6 228,11	4 044,66	23,654	6 228,11	5 984,47
Severomoravske plynarenske	Czech Republic	Branice Czech	Poland	Hour	mcm/year	1,40	1,40	0,81	0,60	0,59	1,40	0,20
					GWh	14,85	14,85	8,59	6,36	6,26	14,85	2,12
Ukrtransgaz	Ukraine	Drozdowicze	Poland	Hour	mcm/year	4 375,20	5 689,20	4 328,20	1 034,60	47,00	5 689,20	3 646,00
					GWh	46 407,75	60 345,34	45 909,22	10 974	498,529	60 345,34	38 673,12
Biełtransgaz	Belarus	Tietierowka	Poland	Hour	mcm/year	236,52	236,52	236,52	0,00	0,00	236,52	86,30
					GWh	2 508,77	2 508,77	2 508,77	0,00	0,00	2 508,77	915,38
Biełtransgaz	Belarus	Wysokoje	Poland	Hour	mcm/year	5 475,00	5 475,00	3 255,09	1 660,38	2 219,91	5 475,00	2 776,40
					GWh	58 073,33	58 073,33	34 526,74	17 611,65	23 546,59	58 073,33	29 449,27
OGP GAZ-SYSTEM SA	Poland	Włocławek	Poland	Hour	mcm/year	3 040,80	3 040,80	1 740,68	2 693,00	1 300,12	3 040,80	2 506,40
					GWh	32 253,77	32 253,77	18 463,39	28 564,65	13 790,37	32 253,77	26 585,38
OGP GAZ-SYSTEM SA	Poland	Lwówek	Poland	Hour	mcm/year	2 283,18	2 283,18	1 208,24	1 668,30	1 074,94	2 283,18	1 606,40
					GWh	24 217,69	24 217,69	12 815,80	17 695,66	11 401,89	24 217,69	17 039,09
Ukratransgaz	Ukraine	Hermanowice	Ukraine	Hour	mcm/year	-	1 462,92	-	1 145,44	-	1 462,92	918,12
					GWh	-	15 517,19	-	12 149,68	-	15 517,19	9 738,50

* The maximum firm transmission capacity that the TSO can offer to the network users, taking into account the system integrity and exploitation requirements of the transmission network.

Source: OGP Gaz-System SA.

In 2013 TSO continued the project to implement physical reverse flow at Mallnow point on Yamal-Western Europe pipeline, undertaken in 2012 in cooperation with GASCADE. This investment has allowed to increase the level of diversification of gas supplies to Poland and the flexibility of the security system in the case of the crisis scenarios implementation. The investment project was completed in the first quarter of 2014. Capacity auction was held on 24 February 2014.

On 3 and 4 June 2013 the Polish and German transmission system operators, OGP Gaz-System SA and ONTRAS – VNG Gastransport GmbH, for the first time offered bundled capacity product at the Lasów interconnection point. Bundled capacity in the amount of 57 980 kWh/h (5 200 nmc/h), was offered in three auctions of the pilot project on PRISMA auction platform for the first three quarters of 2014. As a result of all three auctions capacity was allocated as follows: 2nd Quarter of the 2013/2014 gas year [January 2014 – March 2014], capacity covered by the auction: 57 980 kWh/h (5 200 nmc/h), allocated capacity: 57 000 kWh/h, available capacity: 980 kWh/h; 3rd Quarter of the 2013/2014 gas year [April 2014 – June 2014], capacity covered by the auction: 57 980 kWh/h (5 200 nmc/h), allocated capacity: 20 100 kWh/h, available capacity: 37 880 kWh/h; 4th Quarter of the 2013/2014 gas year [July 2014 – September 2014], capacity covered by the auction: 57 980 kWh/h (5 200 nmc/h), allocated capacity: 21 115 kWh/h, available capacity: 36 865 kWh/h.

Pursuant to annex I to regulation 715/2009, since 1 October 2013, management procedures for contractual congestions have been applied at the points of interconnection by OGP Gaz-System SA. Those procedures were included in the TNC and approved by the President of ERO with the Decision No. DRR-4322/5(9)/2013/JBu. After carrying out consultations with system users, it was decided to introduce into TNC oversubscription and buy-back schemes. The President of ERO imposed on the Polish transmission system operator an obligation to take steps, by June 2014, in order to agree upon, with the respective cooperating operators, the procedure for determining the amount of capacity under the oversubscription mechanism, so that the capacity offered within the oversubscription mechanism was offered jointly as bundled capacity.

In 2013 the President of ERO monitored also the principles of managing and allocating capacity implemented on the section of Yamal-Western Europe pipeline located in the territory of the Republic of Poland. The table below shows the transmission capacity and the transmission on the basis of reverse flow on this section of the Yamal-Western Europe gas pipeline.

Table 18. Transmission capacity on the Polish section of the Yamal-Western Europe pipeline in 2013

Total transmission capacity in the entry point to the system on the Belarusian-Polish border [mcm/hour]	Total transmission capacity in the exit point from the system on the Polish-German border [mcm/hour]	Total transmission capacity in the exit points from the system of OGP Gaz-System SA [mcm/hour]	Unreserved transmission capacity at the entry point to the system [mcm/hour]
3,850	3,500	0,619	0,014
Transmission capacity [million cubic metres per year] (annual = daily x 365 x 0,91)			
Reserved at the entry point to the system	**Reserved for transit**	**Reserved for domestic consumption**	**Unreserved**
30,583	27,900	2,682	0,111
Reverse flow transmission			
No. of entities to which TSO provided reverse flow transmission services in 2013		**Amount of transmitted gas**	
13		1 906 908 196 mcm	

Source: OGP Gaz-System SA.

Cooperation with the regulatory authorities from other countries

In the period from 1 July 2012 until 30 June 2013 the Polish presidency of the Visegrad Group (V4) was held. During the Polish presidency, on 16 June 2013, the Roadmap towards a common regional V4 gas market was approved by the Prime Ministers of the V4 Member States. The main objectives of the Road Map are: the development of infrastructure and interconnections between V4 countries, cooperation in the scope of physical market integration in the region and in the implementation of the EU network codes, by strengthening cooperation between the regulators and transmission system operators in the region. This document set V4 Forum for the gas market integration, which should provide political support for the process and coordination of actions between the ministries, national regulatory authorities and transmission network operators. The Forum should also address the harmonization of legislation in order to facilitate the joint implementation of the relevant network codes, and streamlining cooperation concerning the possibility of implementing the target model for the V4 region. In January 2014 in Budapest a workshop on joint implementation of network codes in the Visegrad Group was held, during which the assumptions of the Road Map were reformulated and regulators decided to focus, within the framework of the V4, primarily on the consistent implementation of the EU network codes and attempt to create a uniform licence requirements, so as to enable honouring of licences issued by each other.

Considering the course of the regulators' cooperation within the project, on 6 November 2013 in Budapest the statement on cooperation between regulatory authorities of the V4 countries was signed and a permanent Forum of the V4 Regulators was established. V4 Regulators' Forum shall be a platform for the exchange of experience, knowledge and best practices among the regulators, and shall serve for the cooperation in solving both problems of individual V4 countries, and the whole region. The purpose of the Forum is to strengthen cooperation of the parties in the scope of creating common gas and electricity markets, both in the V4 region and in the whole Central Eastern European (CEE) region, as well as to improve energy security and empower energy customers.

In terms of common implementation of the network codes, the President of ERO cooperated with the regulatory authorities of the neighbouring countries. During the works on the implementation of the CMP Code into the Polish system, the assumptions were consulted with regulators from the neighbouring states. Works and discussions on the early implementation of the CAM Network Code were and still are conducted. As a result, bundled capacity at the Lasów point was offered.

In 2013 the works of the regional groups established by the Commission in order to select PCI projects, were being held. In reference to gas projects, the employees of ERO participated in the works on the selection of projects for the North-South corridor and BEMIP. As a result of the groups' works a list of PCI projects was adopted and published in October 2013. The list includes the following projects of OGP Gaz-System SA: the western pipeline of the North-South corridor in Poland, along with the Poland-Czech Republic interconnector; the eastern pipeline of the North-South corridor in Poland, along with the Poland-Slovakia interconnector; the Poland-Lithuania interconnector; Baltic Pipe; extension of the LNG terminal in Świnoujście; extensions of the entry points of the Yamal pipeline in Lwówek and Włocławek.

Monitoring investment plans and assessment of their consistency with Community-wide network development plan

Energy undertakings involved in the transmission or distribution of gaseous fuels, pursuant to Article 16, paragraph 1 of the Energy Law Act, are obliged to prepare, for the area of their activity, development plans for meeting current and future demand for those fuels.

On 27 August 2013 Amending Act to Energy Law Act was published aimed at, in particular, ensuring full implementation of the provisions of directive 2009/73/EC. The changes in its essential part were related to network operators and concerned, i.a. the obligations connected with the development plans of the network undertakings. Due to the wide range of changes in the above-mentioned Act concerning development plans, instead of adding or amending particular fragments of the article concerning the aforementioned development plans, the fragment regulating this issue has been given a completely new wording. Changes included mainly the following areas:

- the period and frequency of elaborating and updating the development plan, by energy undertaking involved in the transmission of gaseous fuels, was changed. The plan shall be elaborated for a period of 10 years[27)] and updated every 2 years, whereas in case of the gas transmission system operator performing tasks of the operator under the agreement entrusting with the responsibilities of the gas transmission system operator, concluded with the owner of the transmission network[28)], an annual update was introduced. This is a significant change in comparison with the previous situation, which provided for an obligation to elaborate plans for at least three-year periods,
- the transmission system operator has been obliged to conduct consultations on the draft development plan with stakeholders, including the current and potential system users or their organizations, prior to submitting it to the President of ERO for agreement.

  In the previous system the plans were only evaluated by the boards of voivodeships.

In addition, the Amending Act introduced a significant change in the form of wording of Article 16, paragraph 14 of the Energy Law Act, imposing on the gas distribution system operator an obligation to submit to the President of the ERO, for agreement, the development plan and its updates by 31 March.

The change in the procedures was not accompanied by any amendments to the existing requirements regarding the content of the plans themselves, and thus, as hitherto, in case of natural gas they should contain i.a.:

- the expected range of supply (volume of supplies),
- projects in the scope of modernization, expansion or construction of the network, as well as possible new sources of gaseous fuels,
- projects in the scope of modernization, expansion or construction of connections with gas systems of other countries,
- projects rationalizing the consumption of fuels and energy by the customers,
- the expected method of investment financing,
- expected revenues necessary for the implementation of plans, and
- the expected schedule of the investment implementation.

[27)] The main change in the development plans resulting from the provisions of legal acts included in the third energy package, in force since 3 March 2011, is the obligation to elaborate the development plans in the ten-year perspective. Acts of the third energy package provide for the development of the Community-wide and regional development plans, and assessment of their consistency with the national plans. This will be enabled by the unification of periods for which the plans of the transmission system operators are developed.

[28)] This applies to carrying out the tasks of the transmission system operator on the Yamal-Western Europe pipeline by OGP Gaz-System SA.

The subjective scope of the obligation has not changed either – just as before the amendment, draft plans are subject to agreement with the President of ERO, with the exception of those related to undertakings conducting business activity in the scope of transmission or distribution for less than 50 customers, to whom the undertaking supplies less than 50 mcm of those fuels annually.

Agreeing of the development plans is aimed at ensuring the compliance of the draft plan with the Act and secondary legislation to that Act, and compliance with the objectives of the national energy policy. Development plans – due to the long-term cycle of investment and commitment of significant financial resources (high capital-intensiveness), which cause long-term financial consequences for the undertaking and its customers - have a direct impact on the level of future tariffs of the undertaking. Agreeing of the development plans is therefore closely related to the issuance of the decision on tariffs' approval.

The development plans are also the basic source of knowledge on the investment plans of the undertaking, in the scope of planned investments for connecting new customers, as well as on projects necessary to maintain the required level of reliability and quality of provided network services.

In reference to the wide scope of amendment to the Act with regard to development plans, the information of the President of ERO was prepared and published on the website of the Office. Notwithstanding this, detailed written and oral explanations in the matters concerning the way of meeting the obligations related to the development plans were provided. Questions mainly focused on how to assess particular cases in the context of the transitional provisions[29)], as well as the requirements for updating development plans in the rolling system.

Monitoring of the investment plans is based on the reports on the execution of plans that energy undertakings involved in the transmission and distribution of gaseous fuels submit to the President of ERO by 30 April of each year[30)].

In 2013 OGP Gaz-System SA was implementing investments based on the development plan agreed in 2009, for the period from 1 May 2010 until 30 April 2014.

Under this plan, the extension of the interconnection with the Czech Republic in Cieszyn (2012) and extension of the interconnection with Germany in Lasów (2013) were executed.

By the end of 2013 the construction of the LNG terminal in Świnoujście and gas pipelines in the north-western and central Poland to distribute gas from it were still ongoing.

Due to the upcoming expiration of the period for which the development plan of OGP Gaz-System SA had been agreed, in 2013 the preparations to elaborate a new development plan were started. To this end, already in April the company was provided with guidelines concerning the layout, structure and content of the submitted information, and the deadline for the submission of the development plan for the years 2014-2023 was set. OGP Gaz-System SA, prior to submitting the draft plan for agreement, informed on its website about starting to elaborate the development plan and conducted public consultations with stakeholders, in particular the operators of other gas systems and system users.

Following the submission of the draft, in the course of the conducted proceeding, the company was several times requested to provide additional information and clarification. Explanations included, i.a. compliance of the draft with the provisions of the Energy Law Act, that require taking into account the national energy policy and priorities determined therein[31)] while elaborating the development plan, as well as providing long-term maximization of the efficiency of expenditures and costs incurred by the energy undertaking, so that expenses and costs would not cause excessive growth of prices and charges for the supply of gaseous fuel in particular years, while ensuring continuity, reliability and quality of its supply.

[29)] The transitional provisions provide for elaborating of the transmission network development plan in accordance with the new requirements, for the first time after 2 years from the date of entry into force of the Amending Act. Moreover, they provide for, until the expiration of the transmission agreements, application of the previous provisions in relation to agreements entrusting Gaz-System with the performance of the transmission system operator's tasks, concluded before the entry into force of the Amending Act.

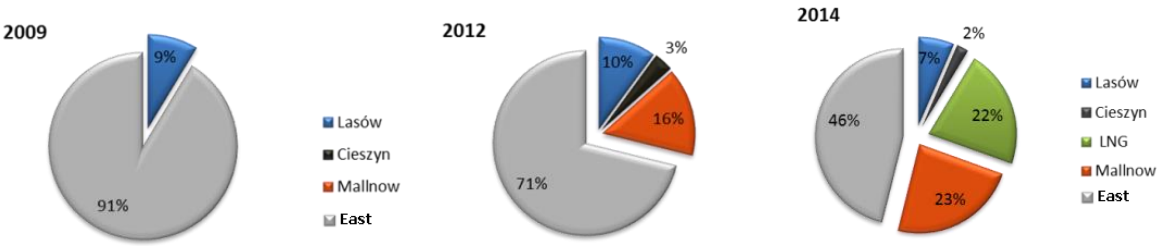
[30)] Amendment of the Energy Law Act changed the deadline for submitting the report from 30 March to 30 April.

[31)] Pursuant to the Action plan for the years 2009-2012, constituting Appendix 3 to the Energy Policy of Poland until 2030, OGP Gaz-System SA is responsible for the implementation of the measure 2.16 named Diversification of supplies by building a transmission system for natural gas supplies from the north, west, and south, as well as building connections to primarily meet the requirement of supply sources diversification. This measure has not been completed, therefore it is necessary to concentrate resources in order to implement, without delay, activities of the Policy and their prioritization in the development plan of OGP Gaz-System SA.

As a result of the undertaken works, the Company submitted the final supplemented version of the application in January 2014 and the development plan of OGP Gaz-System SA for the years 2014–2023 was agreed with the letter of 4 April 2014 (Ref. No. DRG-4311-7(44)/2013/2014/RTu).

The primary objective of the development plan of OGP Gaz-System SA is to improve the conditions for the diversification of gas supplies. Figure 13 shows a graphic representation of diversification opportunities that arise as a result of the implementation of subsequent investments of the Company. Construction of the physical reverse flow at Mallnow will ensure effective access to gas sources from different directions. Further investments improving the structure of supply are the LNG terminal and the Southern interconnector.

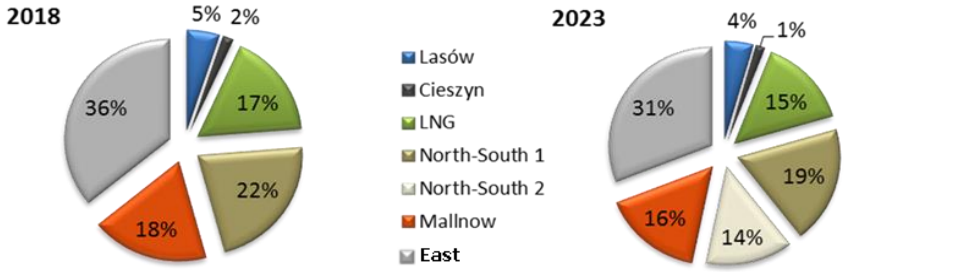
Figure 13. The level of diversification of gas supplies in the years 2009-2014



Source: OGP Gaz-System SA's development plan for the years 2014–2023.

Figure 14 shows the achievable share of gas supplies from different directions in the perspective of the years 2018 and 2023.

Figure 14. Possible level of diversification in the years 2018-2023



Possible import capacity: 29,5 bcm

Possible import capacity**:** 34,2 bcm

Source: OGP Gaz-System SA's development plan for the years 2014–2023.

In 2013 three DSOs were implementing the development plans agreed in 2009, and the remaining three DSOs were implementing the updated development plans for the years 2009-2013. It shall be mentioned here, that the indicated six DSOs were, as of 1 July 2013, consolidated into one entity – PSG, that took on the branch structure with six Branches corresponding to the previous six DSOs.

In 2013 the six DSOs also submitted the draft development plans in the scope of meeting the current and future demand for gaseous fuels, for the period of 2014-2018, which were sustained by the consolidated entity PSG and eventually the merged draft development plan for the period of 2014–2018 was agreed with a letter of 13 March 2014 (Ref. No. DRG-4311-6(50)/2013/2014/RTu).

A summary of the investment expenditures of the six DSOs and TSO is presented in table 19.

Table 19. Summary of investment expenditures in current prices (in total for the six DSOs and for the TSO)

Year	Investment expenditure	
	Planned	Incurred
	[thousand PLN]	[thousand PLN]
2009	1 705 464	1 430 122
2010	1 907 838	1 458 411
2011	2 264 962	1 773 655
2012	3 569 178	2 173 850
2013	2 854 330	2 482 046

Source: ERO.

In 2013 the total expenditure incurred by DSOs amounted to 1 271 598 000 PLN.

The length of transmission networks of methane rich E gas in 2013 amounted to 175 692,6 km[32)], while the length of this networks of other gaseous fuels in the indicated year amounted to 9 591,8 km (see table 20).

Table 20. Length of distribution and transmission networks

Year	Network length [km] of		
	E	Other gaseous fuels	Total
2010	167 220,3	9 242,1	176 462,4
2011	171 038,1	9 108,0	180 146,1
2012	173 161,8	9 343,0	182 504,8
2013	175 692,6	9 591,8	185 284,4

Source: ERO.

The role of the President of ERO in the process of assessing the efficiency of network operation has not changed and concerns mainly the following tasks:

- approving, within the tariffication process, such level of the undertaking revenues that may ensure its security of supply and improve the efficiency of network operation measured i.a. by the average interruption time due to downtimes, improve technical network capacity and decrease the volume of gas allocated to cover network losses,
- assessing the network operation during the process of agreeing draft development plans for the coming years, when justified level of the planned expenditures covered with the tariff income is analysed in the context of network development and the security of supply,
- requiring the network undertakings to include in their tariffs provisions on the discount rates arising from the quality of service, including the reductions of the contractual capacity volume and failures to meet the quality standards of customer service.

4.1.5. Compliance

Compliance of regulatory authority with binding decisions of the Agency for the Cooperation of Energy Regulators and European Commission and with the Guidelines

Pursuant to Article 41, paragraph 1, letter d of directive 2009/73/EC, the regulatory authority shall comply with and implement any relevant legally binding decisions of the Agency and of the Commission. However, taking into consideration that the provisions of the above-mentioned directive were implemented to the Polish law in the second half of 2013, the scope of the assessment of use of this regulation will be possible only in subsequent years. Due to similar reasons the President of ERO did not ask, in 2013, the Agency for any opinion on the compliance of the decisions he made with the guidelines of the Agency. At the same time, the compliance of the decisions of the President

[32)] OGP Gaz-System SA and EuroPol Gaz SA in total.

of ERO with the guidelines was not subject to the European Commission's examination. However, the President of ERO have been cooperating in 2014 with the European Commission within the proceedings on granting the certification of independence to the gas transmission system operator.

Compliance of transmission and distribution companies, system owners and gas undertakings with the relevant Community legislation, including cross-border issues

In 2013 monitoring, by the President of ERO, of the transmission, distribution and storage system operators focused on the analysis of the tasks carried out by them and resulting directly from regulation 715/2009 and the Energy Law Act.

The President of ERO monitored the execution of tasks performed by the transmission system operators in particular with regard to non-discriminatory treatment of system users, and the implementation of reporting obligations.

Monitoring in the field of transmission system operatorship, carried out by OGP Gaz-System SA, was related to:

- the provision of services related to third party access,
- capacity allocation mechanisms applied,
- congestion management procedures,
- transparency of the technical data disclosed to the public and required by system users to obtain effective access to the system,
- balancing mechanisms and level of imbalance charges.

In 2013 no breaches of the TSO's obligations in relation to cross-border issues were detected.

Changes in the provisions of the Transmission Network Code

In 2013, the works on the introduction of changes to the TNC, resulting from the need to implement provisions adjusting the regulations of TNC to the requirements of the European law, in particular in terms of provisions of the Network Code on Capacity Allocation Mechanism in Gas Transmission Systems (CAM NC) and Congestion Management Procedures (CMP), were ongoing. Three mechanisms of the congestion management procedures (CMP) were adopted, i.e. oversubscription and buy-back mechanisms, the possibility of surrender of the contracted capacity by the shipper and a long term use it or lose it mechanism (LT UIOLI) were introduced. Point of Interconnection on the border with Transit Gas Pipeline System was introduced and the rules of concluding connection agreements were modified. The new TNC introduces an auction mechanism as the basic mechanism for the capacity allocation on interconnections (requirement of the CAM NC). Also, the half-yearly product (the period for which the transmission service is provided) was discontinued. Currently, the TSO offers yearly, quarterly, monthly and daily products.

Changes in the provisions of the Distribution Network Codes

In connection with the completion of the consolidation process of distribution companies in 2013, DSO developed a new DNC, which unified the existing rules of providing distribution services, connecting customers and supplier switching. The new DGC approved by the President of ERO entered into force on 1 January 2014.

Moreover, in 2013 the works aimed at introducing a uniform, for the entire company, procedure of connecting customers to the gas network were carried out and finalised in the early months of 2014. Those changes shall be considered as positive – since the standardization serves for the realisation of the objective of non-discriminatory treatment of system users.

Monitoring fulfilling the certification conditions by the TSO

Due to the fact that until 11 March 2014 the owner of the transmission network or the energy undertaking referred to in Article 9h[1], paragraph 2, point 1 of the Energy Law Act shall submit an application for granting the certification of independence, the President of ERO decided that the examination of the TSO independence under OU and ISO models will take place in the course of proceedings on granting the certification of independence.

4.2. Promoting competition

4.2.1. Wholesale market

The level of the wholesale natural gas market development is still unsatisfactory. Due to the vertically concentrated structure of the sector, wholesale trade on the domestic market (sale of gas carried out within the bilateral contracts to the trading companies and sale of gas through the gas exchange) amounts to only 2,9% of the national consumption.

Acquisition and flows of natural gas

Gas supplies from abroad, in the amount of 124,9 TWh, were supplemented with gas from domestic sources in the amount of 46,2 TWh, which constituted nearly 24% of the total national gas supply. The total supply of gas from abroad comprised import from the eastern direction and intra-Community supplies, whereas its significant part was constituted by import from the eastern direction carried out under the long-term contract concluded in 1996 between PGNiG SA and OOO Gazprom Export. Under this contract 97,7 TWh of gas were purchased, which constituted about 78,2% of total imports of this resource to the territory of Poland. This import was supplemented with the intra-Community supplies. The total volume of the intra-Community supplies carried out under contracts amounted to 27,2 TWh, which constituted 21,8% of total supply of gas to the territory of Poland.

The detailed information on the structure of gas supplies in 2013 are presented in the below table.

Table 21. Structure of gas supplies in 2013

Specification	Volume [TWh]
Imports, of which:	124,9
- „Yamal" contract	97,7
- intra-Community acquisition	27,2
Extraction	46,2
Storage facilities (change in the level of stocks)*	-3,7*
Purchase from the domestic sources (including multiple trade)	25,9

* „+" – stock increase, „-" – stock decrease

Source: ERO on the basis of the data of the gas trading companies.

In 2013 an increase in gas flow through the Polish transmission system was noted, i.e. 524,8 TWh. Most of this gas was transported in transit with the use of the Yamal-Western Europe pipeline. The table below presents the main directions of gas flows in the transmission system.

Table 22. Balance of high-methane and nitrogen gas flows in the transmission system (including Transit Gas Pipeline System) in 2013 [TWh]

Entry to the system in total		**524,8**
of which:	mines and denitriding plants	38,6
	storage facilities	12,7
	supplies from outside the EU	433,2
	supplies from the UE	39,9
	other (entry points from distribution system)	0,3
Exit from the system in total		**524,8**
of which:	blending stations and denitriding plants	4,5
	storage facilities	16,4
	to the distribution network	103,5
	to the end users connected to the transmission network	53,4
	supplies from outside the EU	331,3
	supplies from the UE	10,3
	operator's own needs	5,3

Source: ERO on the basis of data of OGP Gaz-System SA and SGT EuRoPol GAZ SA.

Over the Counter market

Activity in the scope of wholesale trade in natural gas in Poland, understood as the sale of gas to the entities using it for further resale, was dominated by PGNiG SA. At the end of December 2013, 120 entities were licensed to trade in gaseous fuels, whereas 36 energy undertakings actively participated in natural gas trading. A significant part of the wholesale trade still takes place in the physical network points and concerns companies that have their own distribution networks.

Trading companies not belonging to PGNiG SA gained 8.3 TWh of natural gas, 56,3% of which was purchased from PGNiG SA. Data on the purchase and sale of gas by trading companies are presented in the table below. The volume of gained gas includes acquisition for own needs.

Table 23. Volume of gas acquired and sold in the wholesale trade by the largest trading companies in 2013 [TWh] under OTC contracts.

	Total	**PGNiG SA**	**Other trading companies**
Acquired gas	175,5	167,2	8,3
Wholesale sales of gas	4,0	3,7	0,3

Source: ERO on the basis of data from the trading companies.

Natural gas exchange

On 20 December 2012 Commodity Forward Instruments Market with Physical Delivery for gas (CFMg) was launched on the natural gas exchange. The characteristic of this market is presented below:

- subject of trade is the supply of gas in equal volumes at all hours of the delivery period compatible with the standard of the product (monthly, quarterly and yearly),
- subject to listing are products in series of: M+3, Q+4, Y+2,
- trading is conducted on weekdays from 8:00 to 14:00 in the continuous trading system,
- listing period ends two days before the start of the implementation period,
- transactions concluded on the gas exchange shall be executed by OGP Gaz-System SA.

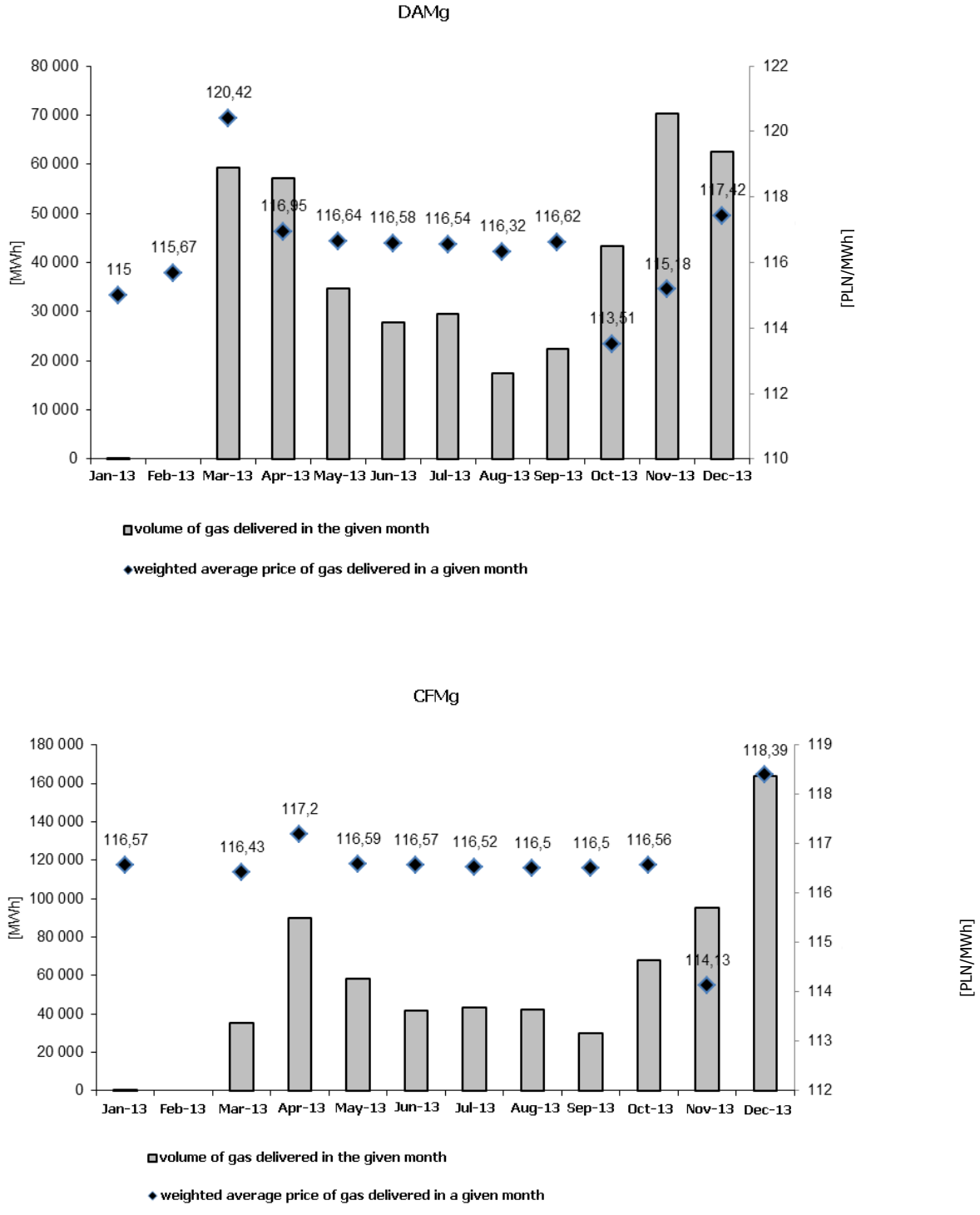
At the end of 2012 gas Day-Ahead Market (DAMg) was launched. Below are the characteristics of this market:

- subject of trade is the supply of gas in equal volumes at all hours of the delivery day, it is a base type product,

- one contract corresponds to the delivery of 1 MWh of gas during each hour of the delivery day,
- trading is conducted during one day preceding the date of delivery,
- trading on DAMg is conducted in the continuous trading system,
- information about concluded transactions (nominations) are submitted to OGP Gaz-System SA.

The below figure presents the effects of natural gas trading on the gas exchange in 2013.

Figure 15. Volume and price of gas delivered as a result of the execution of contracts concluded on the gas Day-Ahead Market (DAMg) and Commodity Forward Instruments Market with Physical Delivery for gas (CFMg), which were executed in 2013



Source: ERO on the basis of data provided by POLPX.

In the period between January and December 2013, as a result of the execution of contracts concluded on POLPX, 1 113 042 MWh of natural gas at an average price of 116,73 PLN/MWh were delivered. During this period, contracts of the volume of 424 700 MWh in the spot market and 1 959 790 MWh in the forward market were concluded. Results of the notations of individual contracts are regularly disclosed on the website www.wyniki.tge.pl/pl.

Development of the gas exchange market is, inter alia, a consequence of the introduction into the Energy Law Act of Article 49b, which imposes, on energy undertakings involved in trade in gaseous fuels, an obligation to sell part of the high-methane gas fed into the transmission network in a given year on commodity exchanges or on the market organised by an entity leading regulated market in the territory of the Republic of Poland (hereinafter: "obligation of a public sale of natural gas"). In 2013 this obligation amounted to 30% of gas fed into the transmission network by an undertaking involved in trade in natural gas. The volume of gas covered by the above-mentioned obligation is increasing in subsequent years, from 1 January 2014 to 40%, and from 1 January 2015 to 55%.

It should be emphasized that the introduction of the obligation of a public sale of gas is to enable the creation of wholesale natural gas market, characterized by high transparency of transactions. This will allow entities involved in trade in gaseous fuels to gain access to the gaseous fuel offered on the domestic market in a transparent manner, under prices determined through market mechanisms.

4.2.2. Retail market

A high level of concentration on the Polish market of gaseous fuels, resulting from the dominant position of the PGNiG Capital Group, is still influencing the structure of the retail market and the pace of changes in the market. In 2013 about 94,42% of the natural gas sales was performed by PGNiG SA, while the remaining 5,58% by other trading companies active on the market. In 2012, PGNiG SA's share in the sale of natural gas was equal to 95,22%, while the share of other companies amounted to 4,78%, which is a prove of slow changes occurring on the retail gas market.

When performing a comprehensive analysis of the retail sale of natural gas of PGNiG SA Capital Group in 2013 in reference to all groups of customers it should be stated, that the most numerous group was constituted by household customers, consuming both high-methane and nitrogen gas. They accounted for 99,8% of high-methane gas consumers and 95,6% of nitrogen gas consumers, while their share in the total volume of sales amounted to, respectively: 27,3% for high-methane and 15,9% for nitrogen gas. The biggest share 35,86% in the sale of natural gas was held by the customers with consumption volume above 25 mcm. PGNiG SA, apart from providing natural gas to final customers, sells this fuel also for the needs of the gas system operators.

The retail gas market is subject to slow changes. In 2013 nineteen biggest trading companies, independent from PGNiG SA, sold jointly 721 mcm of gas, serving 44 920 customers. Trading companies purchased gas mostly from PGNiG SA, but also acquired it from foreign suppliers. In addition to high-methane and nitrogen gas supplied through network, PGNiG SA and other trading companies were selling liquefied gas (LNG). The total sales volume of LNG to final customers in 2013 amounted to approximately 31 271 tonnes.

The biggest entities, in terms of gas sales volume, that are not a part of the PGNiG SA Capital Group and conduct business activity on the retail market, are:

Egesa Grupa Energetyczna SA	(1,17%).
HANDEN Sp. z o.o.	(0,69%).
Duon Dystrybucja SA	(0,54%).
G.EN. Gaz Energia SA	(0,46%).
Enesta Sp. z o.o.	(0,45%).
EWE energia Sp. z o.o.	(0,43%).
Polenergia Kogeneracja Sp. z o.o.	(0,32%).
Anwil SA	(0,28%).
Sime Polska Sp. z o.o.	(0,17%).
ArcelorMittal Poland SA	(0,17%).
Fenice Sp. z o.o.	(0,15%).
KGHM Polska Miedź SA	(0,12%).

Elsen SA	(0,08%).
Huta Pokój SA	(0,08%).
Energia Obrót SA	(0,01%).

In 2013, the regulation of prices of high-methane and nitrogen gas supplied through gas networks to the retail market was maintained, while the prices of LNG and CNG have been exempted from tariffication on the basis of Article 49 of the Energy Law Act.

4.2.2.1. Monitoring the level of prices, the level of transparency, the level and effectiveness of market opening and competition

In 2013, in the retail segment, the efforts aimed at creating conditions for the functioning of the competition mechanisms were being continued. Those activities were identified in the Roadmap of the natural gas prices liberalization, published by the President of ERO in 2013. In July 2013 the President of ERO issued an information on the timeline for exemption of energy companies that hold a licence for trading in gaseous fuels or foreign trade in natural gas, from an obligation to submit for approval tariffs for gaseous fuels with respect to the sale of methane-rich natural gas to end-users other than households.

In this information the President of ERO described the conditions for the exemption of undertakings from the obligation to submit tariffs for the sale of gas to final customers for approval. The prerequisite, which was crucial for the decision on releasing the gas prices, was the entry into force of the provisions guaranteeing the extension of the public sale obligation to at least 30% of high-methane natural gas fed into the transmission network (the so-called "gas exchange obligation"). It was assumed that the conditions, determined in the Energy Law Act, for exemption of energy undertakings holding licences for trade in gaseous fuels or foreign trade in natural gas, from the obligation to submit, for approval, tariffs for gaseous fuels with respect to the sale of methane-rich natural gas to final customers connected to the transmission or distribution network of high-methane gas, who consumed at least 25 mcm of high-methane gas in the previous calendar year, and to the energy undertakings acquiring high-methane natural gas in order to conduct business activity in the scope of transmission, distribution, storage, liquefaction or regasification of natural gas, will then be met. Individual decisions on the exemption from the obligation to submit tariffs for approval were supposed to be issued, after the date of entry into force of the obligation to sell natural gas on the commodity exchange, for all energy companies holding licences for trade in gaseous fuels or foreign trade in natural gas, at their request. At the same time, the information indicated that the increase of the obligation of public sale of high-methane gas to the level of 40% and then 55% of gas fed into the transmission network will provide a basis for exemption from tariff approval for the remaining groups of commercial customers of high-methane gas. After increasing the gas exchange obligation to the level of 40% of high-methane gas fed into the transmission network, the exemption can cover big customers of high-methane gas (i.e. customers consuming more than 2,5 mcm of gas per year), while after the introduction of the obligation at the level of 55% and simultaneous development of the OTC wholesale gas market – also the remaining customers connected to the high-methane gas network, that are not household customers. Exemption from the obligation to set tariffs for customers in those groups will be preceded by a re-examination of meeting the conditions set out in Article 49, paragraph 3 of the Energy Law Act, taking into account the effects of introducing the gas exchange obligation at the level of 30%. Until the end of 2013, 30 entities applied to the President of ERO for an exemption from the obligation to submit tariffs for approval, for the sale of gaseous fuels to retail customers, while no individual decision on that matter was issued.

Monitoring of the implementation of the gas exchange obligation conducted in this period did not give grounds for exempting energy undertakings selling gas to the largest customers from submitting prices for approval. Obligation to sell through the gas exchange was not implemented in the full range. The President of ERO received statements of the associations of customers that showed that, despite the appearance of gas offers on the exchange, the biggest gas consumers did not have the possibility to switch supplier due to the provisions of concluded historical contracts. This problem can be solved in the coming year, thanks to the implementation of the decision of the competition authority, which obliged PGNiG SA to introduce market-oriented changes into the contracts with final customers, including a reduction of take-or-pay clauses.

The possibility of competition development is also limited by the provisions concerning the security of gas supply from abroad, such as the obligation to diversify supplies and obligation to maintain obligatory reserves. Those provisions limit the economic viability of gas imports from abroad.

In 2013 the scale of supplier switching noted on the retail market was similar as in 2012. In the examined year, 219 gas consumers switched supplier and counting from the beginning of monitoring activity (i.e. from 2011) their number amounted to 429.

The table below shows the number of gas supplier switching in the particular quarters of 2013.

Table 24. Number of supplier switchings (according to the number of switches) at the end of I, II, III and IV quarter of 2013

QI 2013	QII 2013	QIII 2013	QIV 2013
112	30	50	27

Source: ERO on the basis of data provided by DSOs and TSO.

4.2.3. Recommendations on supply prices, investigations and measures to promote effective competition

Pursuant to the provisions of the Energy Law Act and executive regulations, energy undertakings calculate tariffs for gaseous fuels or electricity that allow for covering the planned justified costs of the conducted business activity, along with the fair return on capital employed in this activity. The deviations of the planned costs from the actual costs (both above and below the threshold) are not taken into account in the tariffs of those undertakings, determined in the subsequent years.

Nevertheless, in case of a significant change to the conditions of conducting business activity by the aforesaid undertaking during the time when the tariff is in force, the undertaking can apply to the President of ERO for approval of the correction of the binding tariff. In well-justified cases – both in a situation when external conditions threaten the financial standing of the undertaking, and when they generate too high revenues - the President of ERO, after completing an administrative proceeding, can issue a decision correcting the applied tariff.

In order to promote effective competition and counteract monopolistic practices, the President of ERO cooperates i.a. with the President of UOKiK.

Antitrust proceedings in reference to practices restricting competition and other action undertaken in reference to the gas sector undertakings, conducted by the President of UOKiK[33)]

In 2013 the President of UOKiK issued one decision regarding applying anti-competitive practices in the gas sector.

With a resolution of 3 April 2013, the President of UOKiK initiated, ex-officio, an antitrust proceeding on:

I. abusing, by Polskie Górnictwo Naftowe i Gazownictwo S.A. in Warsaw (hereinafter: PGNiG), the dominant position on the national – wholesale and retail – sales markets of natural gas, consisting in:
   1. counteracting the formation of conditions necessary for the creation or development of competition on the aforesaid markets by limiting, for gas customers other than households, the possibility to reduce the volume of gaseous fuel ordered for subsequent years in comparison to the volume ordered for the given or previous years, which may constitute an infringement of Article 9, paragraph 2, point 5 of the Act on Competition and Consumer Protection and Article 102 of TFEU;
   2. counteracting the formation of conditions necessary for the creation or development of competition on the aforesaid markets by limiting, for gas customers other than households, the possibility to reduce the contracted capacity of gaseous fuel ordered for subsequent years in comparison to the contracted capacity ordered for the given or previous years, which may

[33)] Fragment on the basis of information provided by UOKiK.

constitute an infringement of Article 9, paragraph 2, point 5 of the Act on Competition and Consumer Protection and Article 102 of TFEU;

3. counteracting the formation of conditions necessary for the creation or development of competition on the aforesaid markets by limiting, for gas customers other than households, the possibility to resale gaseous fuel purchased from PGNiG, which may constitute an infringement of Article 9, paragraph 2, point 5 of the Act on Competition and Consumer Protection and Article 102 of TFEU;
4. counteracting the formation of conditions necessary for the creation or development of competition on the aforesaid markets by requiring to specify in the contract, by gas customers other than households, the maximum volume of gaseous fuel purchased by them for further resale in a given year, which may constitute an infringement of Article 9, paragraph 2, point 5 of the Act on Competition and Consumer Protection and Article 102 of TFEU;

II. abusing, by PGNiG, the dominant position on the domestic wholesale sales markets of natural gas, consisting in counteracting the formation of conditions necessary for the creation or development of competition on the aforesaid market by refusing gas customers other than households, who off-take gaseous fuel from the distribution network in the amount of over 10 mcm/h of high-methane natural gas or over 25 mcm/h of nitrogen natural gas, the right to partially switch supplier (consisting in concluding another contract with another supplier while at the same time reducing capacity contracted from the current supplier), which may constitute an infringement of Article 9, paragraph 2, point 5 of the Act on Competition and Consumer Protection and Article 102 of TFEU.

On 31 December 2013 a decision (Ref. No. DOK-8/2013) was issued in which the President of UOKiK accepted the PGNIG's commitment to:

1. change the content of the specimen of the common service agreement for the supply of gaseous fuels to a customer who is not a consumer and off-takes gaseous fuel from the distribution network in the amount up to 10 mcm/h of high-methane natural gas or up to 25 mcm/h of nitrogen natural gas;
2. change the content of the specimen of the common service agreement for the supply of gaseous fuels to a customer who is not a consumer and off-takes gaseous fuel from the distribution network in the amount of more than 10 mcm/h of high-methane natural gas or more than 25 mcm/h of nitrogen natural gas, as well as the specimen of the common service agreement for the supply of gaseous fuels to a customer who off-takes the gaseous fuels from the transmission network;
3. provide:
   a) all customers, with whom it has concluded contracts containing provisions limiting, for gas customers other than households, the possibility to reduce the volume of gaseous fuel ordered for subsequent years in comparison to the volume ordered for the given or previous years – with an offer to change the concluded contract by - depending on the wording of the contract – either deleting from the contract the entire editorial unit containing the questioned provision, or appropriately modifying this editorial unit, so that the challenged provision is removed therefrom; the offer will provide for a six-month term of acceptance by customers,
   b) all customers, with whom it has concluded contracts containing provisions limiting, for gas customers other than households, the possibility to reduce the contracted capacity of gaseous fuel ordered for subsequent years in comparison to the contracted capacity ordered for the given or previous years – with an offer to change the concluded contract by – depending on the wording of the contract – either deleting from the contract the entire editorial unit containing the questioned provision, or appropriately modifying this editorial unit, so that the challenged provision is removed therefrom; the offer will provide for a six-month term of acceptance by customers;
4. provide all customers with whom it has concluded contracts containing provisions limiting, for gas customers other than households, the possibility to resale the gaseous fuel purchased from PGNiG, with an offer to:
   a) change the contract concluded pursuant to the specimen containing the questioned provisions referred to in point I).1) above by modifying the challenged provisions. The offer will provide for a six-month term of acceptance by customers,
   b) change the contract concluded pursuant to the specimen containing the questioned provisions referred to in point I).2) above by modifying the challenged provisions. The offer will provide for a six-month term of acceptance by customers,

c) change the contracts containing the questioned provisions limiting, for gas customers other than households, the possibility to resale the gaseous fuel purchased from PGNiG, other than referred to in point I).1) and I).2) above, by modifying those provisions. The offer will provide for a six-month term of acceptance by customers;

5. provide all customers with whom PGNiG has concluded contracts containing provisions specifying the maximum volume of gaseous fuel purchased by them for further resale – with an offer to change the concluded contract by deleting the term indicating the maximum volume of gas purchased for trading purposes. The offer will provide for a six-month term of acceptance by customers;
6. provide all customers with whom PGNiG has concluded contracts containing provisions limiting, for customers other than final customers, the right to partially switch supplier – with an offer to change the concluded contract.

The decision is final.

The time-limits for the execution of the decision and report on its implementation are pending.

4.3. Security of supply

Pursuant the Energy Law Act, the Minister of Economy is the government authority in charge of energy policy, including issues related to energy security. At the same time, it is also the competent authority in terms of security of gas supply referred to in the Regulation (EU) No. 994/2010 of the European Parliament and of the Council of 20 October 2010 concerning measures to safeguard security of gas supply and repealing Council Directive 2004/67/EC[34)]. The Regulator cooperates with the Minister of Economy in the scope of ensuring the security of supply in reference to the tasks resulting from the aforesaid regulation and directive 2009/73/EC.

In consequence, the security of gas supply, understood as ensuring customer access to the energy of specified quality and at transparent prices, is the aspect of energy security monitored constantly by the President of ERO with the use of instruments assigned to him.

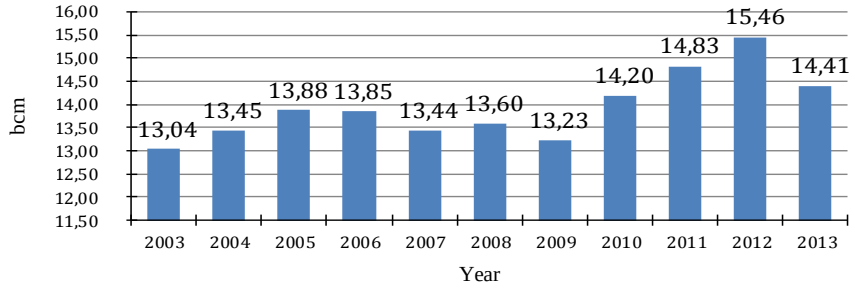
4.3.1. Monitoring balance of supply and demand

The volume of high-methane gas transmitted through the transmission network is shown in the figure 16. In 2013 this volume declined in comparison with 2012 (when it had reached the maximum – so far – level of 15,5 bcm) and amounted to 14,4 bcm, including 12,3 bcm from abroad (of which 10,85 bcm for PGNiG SA, and 8,7 bcm from the Russian Federation). The volume transmitted through the transmission network constitutes more than 90% of national consumption, the rest of the domestic demand is delivered through the distribution systems (bypassing the transmission network) directly from abroad:

- Polska Spółka Gazownictwa Sp. z o.o. – Tarnów Branch through the interconnection with Ukraine in Hrubieszów,
- EWE energia Sp. z o.o. through the interconnection with Germany in Gubin,

(or directly from mines).

Figure 16. Volumes of high-methane E gas transmitted through the transmission network in the years 2003–2013



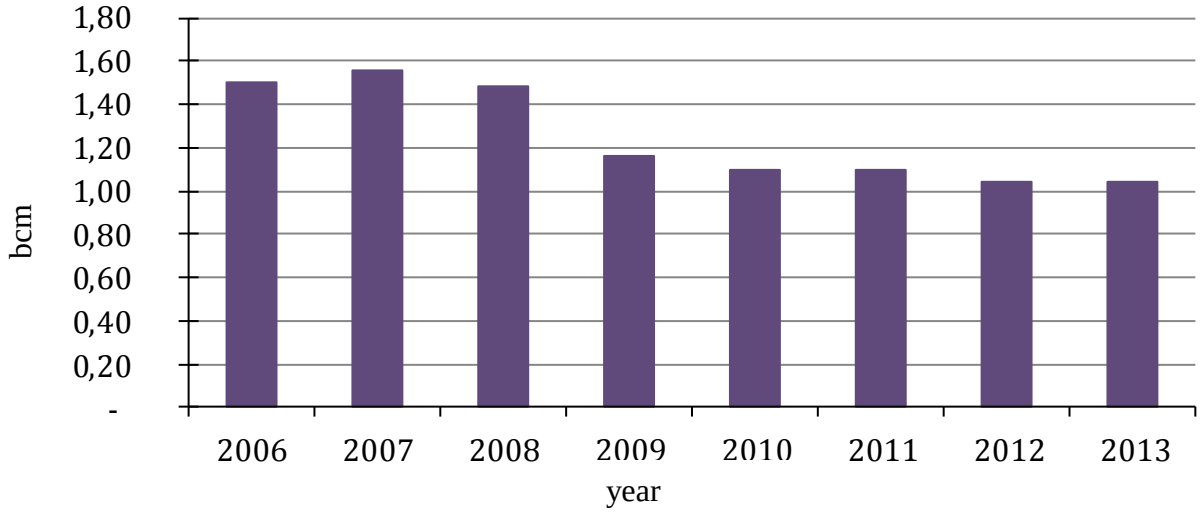
Source: ERO on the basis of the development plan of OGP Gaz-System SA for the years 2014–2023.

[34)] EU OJ L 295/1 of 12.11.2010.

Volumes of gas supplies to customers in particular years result from their current demand. Quite dynamic and steady growth in gas transmission to customers has been observed since 2009, which is mainly due to the increase in internal consumption. In 2012, besides the internal demand, the growth in the volume of transmitted gas was caused by the transmission of gas to Ukraine. In 2013 the drop in gas transmission was mainly due to a decrease in domestic consumption.

The course of the provision of gas transmission service in the nitrogen gas system is shaped in a slightly different way. Demand for nitrogen Lw natural gas in Poland amounted to approximately 1,8 bcm in 2013, of which 1,04 bcm were transmitted through the gas transmission network (Figure 17) of this gas (including 0,7 bcm that constituted a feedstock to Odolanów denitriding unit), and the remainder was supplied through the distribution networks (bypassing the transmission network) directly from the mines.

Figure 17. Volumes of nitrogen L natural gas transmitted through the transmission network in the years 2006–2013



Source: ERO on the basis of the development plan of OGP Gaz–System SA for the years 2014–2023.

In Poland, also nitrogen Ls natural gas is supplied to customers, however, since 2009 (switch of Poznań agglomeration from nitrogen Ls natural gas to high-methane natural gas) it is no longer supplied through transmission networks, but distribution network only (bypassing the transmission network). The demand for this gas was 1,9 bcm in 2013, of which 1,4 bcm constituted a feedstock for Odolanów denitriding unit, and only 0,5 bcm was off-taken by customers.

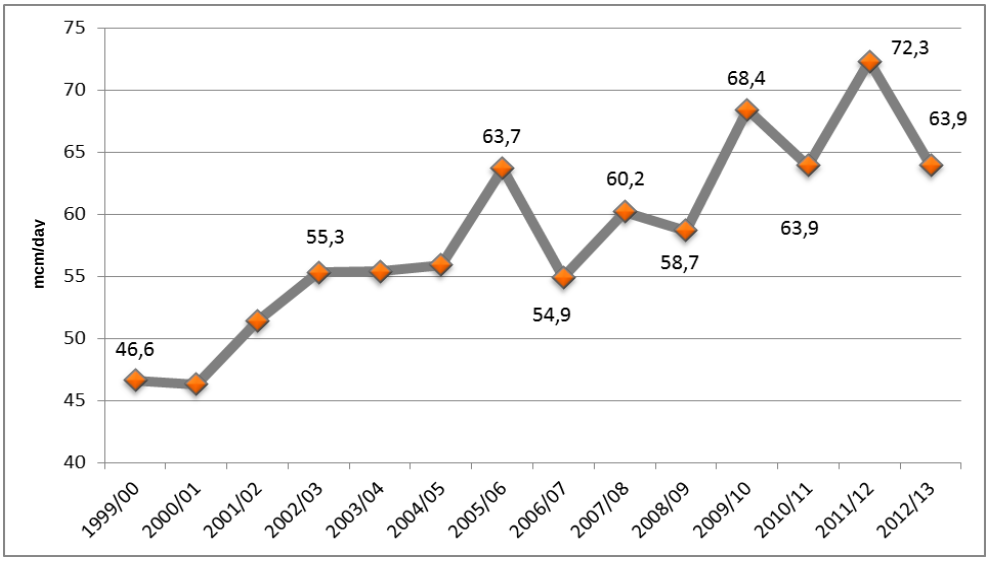
Poland is a country mainly importing gas. Natural gas resources available in mines allow to cover no more than 25% of the total annual volume of gas supplied through the transmission system to customers. The remaining needs of gas consumers are satisfied with imported fuel, mainly from the eastern direction (from the Russian Federation).

In the face of political and economic conflicts between Russia and transit countries, which resulted in problems in ensuring the continuity of supply, diversification of gas supplies has become an aspect of particular importance , so that Poland is not dependent on one direction of gas supply only. Partial improvement of situation had already occurred in 2011, when:

- a new interconnection with the Czech transmission system in Cieszyn was launched, allowing for supplies of gas to the country in the amount of 0,5 bcm/year,
- existing connection with the German transmission system in Lasów was extended, allowing for increase of supplies to the country from this direction up to 1,5 bcm/year,
- provision of transmission services within the virtual reverse flow on the Polish section of the Yamal-Western Europe pipeline was enabled.

It is important to plan the gas system in a way allowing to secure the correct supply in peak demand for gas. Figure 18 below shows the observed peak demand in the transmission system.

Figure 18. Peak demand in winter seasons of 1999/2000-2012/2013



Source: Development plan of OGP Gaz-System SA for the years 2014–2023.

In the peak of 2012/2013 the maximum demand of customers occurred on 24 January 2013 and amounted to 63,9 mcm/day.

4.3.2. Expected future demand and available supplies as well as envisaged additional capacity

Internal demand

The analysis of the forecasts (Ramboll[35)], Ministry of Economy[36)], OGP Gaz–System SA) indicate, that in the long-term forecast of the energy balance of Poland gas would play a secondary role, allowing for complementing the national energy mix. Regardless of that it should be concluded, that the analysis of the annual demand for the transmission service is only an assessment of the customers' demand in the next 10 years, but the actual volumes will depend on the structure of customers (energy sector) and the conditions of electricity generation. Notwithstanding those volumes, from the point of view of the development planning, it is crucial to estimate the peak capacity that may occur in a given year, because it is the peak demand that decides on the required transmission infrastructure development.

Currently, in the scope of demand for the transmission service of high-methane natural gas for the next 10 years, two scenarios are considered, i.e. optimal expansion scenario (OR) and moderate increase scenario (UW), and it is expected that those would form the boundaries between which the real demand for the indicated service will shape. Those scenarios took into account such factors as:

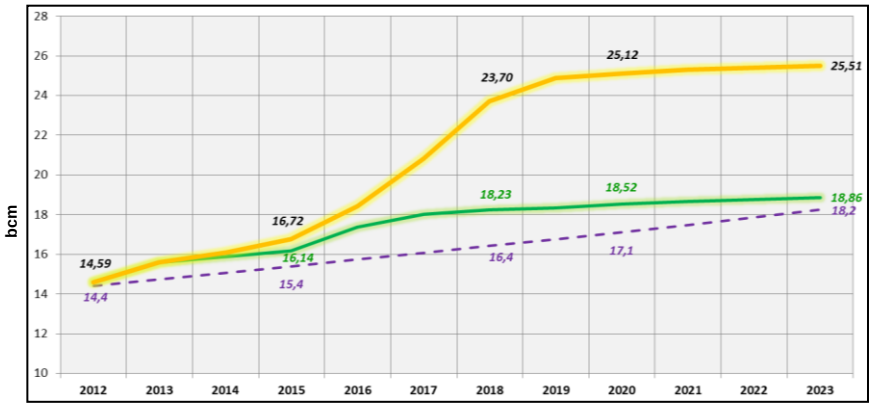
- forecasted GDP,
- potential "paths" of gas prices,
- demographical changes and progress of gasification, chosen on the basis of analysis of the available sources and information obtained from the distribution companies,
- electricity and heat generation based on gaseous fuel – electricity subsector development,
- concluded network connection agreements.

Varied volumes of gas transmitted through the transmission network in the respective scenarios are the result of the analysis of the energy sector demand for gaseous fuel. It should be noted that the dynamic changes in the electricity subsector, require conducting continuous analyses of the demand for gas and may have a significant influence on the forecast. The influence of the remaining

[35)] Ramboll forecast developed for the European Investment Bank (EIB) in 2008.
[36)] Energy Policy of Poland until 2030.

sectors in less dynamic. Figure 19 shows how the volume shapes in particular years for both scenarios. The yellow line shows the volume in the optimal expansion scenario, the green line in the moderate increase scenario, while the dashed purple line shows the forecast of the "Energy Policy of Poland until 2030".

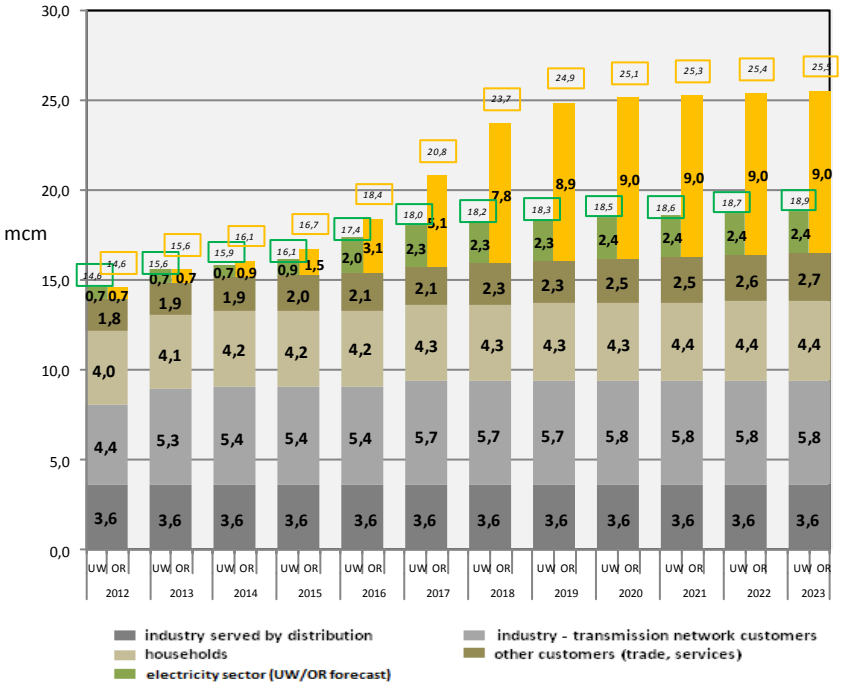
Figure 19. Forecasts of demand for the transmission service



Source: Development plan of OGP Gaz–System SA for the years 2014–2023.

Figure 20 illustrates the demand for the transmission service, broken down by customers in both UW and OR scenarios. Dark grey represents industrial customers served by distribution, light grey is for the industrial customers of the transmission network, light olive colour depicts household customers, dark olive colour (khaki) is the demand of other customers (trade and services), while the yellow and green represent the demand of electricity sector (UW/OR forecast).

Figure 20. Forecasts of demand for the transmission service, broken down by customers



Source: Development plan of OGP Gaz–System SA for the years 2014-2023.

In the moderate increase scenario, in comparison with the baseline scenario (from the Energy Policy of Poland until 2030), the share of electricity generation from gas in the 2020 perspective is estimated to increase from 8,4 TWh anticipated in the base variant to the level of about 12,6 TWh. This was confirmed by the selection of investment contractors for several new heat and power plants with a capacity of about 1 040 MW, with which the TSO has signed agreements for the connection to the transmission system and launched the investment process in the scope of construction of the connection (measuring station and connection to the transmission pipeline). The base forecast assumed only 600 MW of generation capacity based on gas at the time. Growth in demand for gaseous fuel will affect the increase in the volume of transmission service over the next few years (until 2020) by approximately 1,6 bcm.

Optimal expansion scenario is based on more optimistic assessment of growth in the demand for transmission service than the moderate increase scenario, especially as regards the needs of the electricity sector. This scenario forecasts an increase in the production of electricity from gaseous fuel to approximately 42,5 TWh by 2020. That is a significant increase in comparison with the forecast of electricity generation contained in the base forecast. For the purpose of developing the scenario, all the notifications about the construction of gas power units were analysed, the degree of involvement of investors in the discussions related to the execution of connections to those facilities were taken into account, as well as information from the media on the technologies planned for the constructed facilities and the current progress of the works. On the basis of those analyses the increase in capacity of gas generating units was estimated at the level of 6 100 MW, and thus, the increase in the volume of gas transmitted through the system by about 8,1 bcm.

Transit

Poland, due to its geographical location, as well as existing and planned infrastructure in the transmission system is predisposed to perform a significant role in the international transmission of natural gas. For many years the transmission of Russian gas to the markets of western European countries has been performed through the territory of Poland, with the use of Transit Gas Pipeline System, initially dedicated to this purpose. With the acquisition of the function of the operator on this gas pipeline, OGP Gaz-System SA enabled gas transmission through the pipeline in the reverse direction (virtual reverse flow), both for domestic and foreign customers. Therefore, since the end of 2012 transmission of gas in the direction from Germany to Ukraine has been performed. Signals received so far from the Ukraine direction indicate a great interest in importing gas with the use of the Polish transmission system, and expected import volume indicated in the talks can amount even up to 5 bcm per year.

From the point of view of the cross-border gas transmission through the territory of Poland promising prospects may also be associated with the LNG terminal currently built in Świnoujście and the planned commencement of LNG imports. With the extensive inner infrastructure and interconnections, access to the terminal will be possible for the customers from the CEE and Baltic countries.

So far, interest in obtaining gas from the Polish direction has been expressed by a number of entities from the neighbouring countries, which are gas customers, or are active in the area of trading. Here, especially entities from the Czech Republic and Slovakia can be mentioned, which responded to the questionnaire conducted in the framework of cooperation with system operators from the Czech Republic and Slovakia on the works on connecting those systems with the system of OGP Gaz-System SA. Based on the survey and the market screening, demand for transmission of gas to those countries was estimated at the level of:

- Poland → Czech Republic 5 bcm/year and 13,7 mcm/day,
- Poland → Slovakia 4,7 bcm/year and 12,9 mcm/day.

In addition to the above-mentioned directions of transmission, also the possibility of transmitting gas to Lithuania and other Baltic countries is analysed. The results of the conducted works indicate that the potential volumes of gas transmission may amount to 2,4 bcm/year and 6,5 mcm/day. Greater amounts correspond to a situation in which activities related to the integration of transmission systems will be carried out in those countries.

In connection with the construction of the LNG terminal in Świnoujście, the analyses also take into account the long-range gas transmission in the direction from Germany with the use of existing infrastructure and potential new interconnection in the north-western region of Poland.

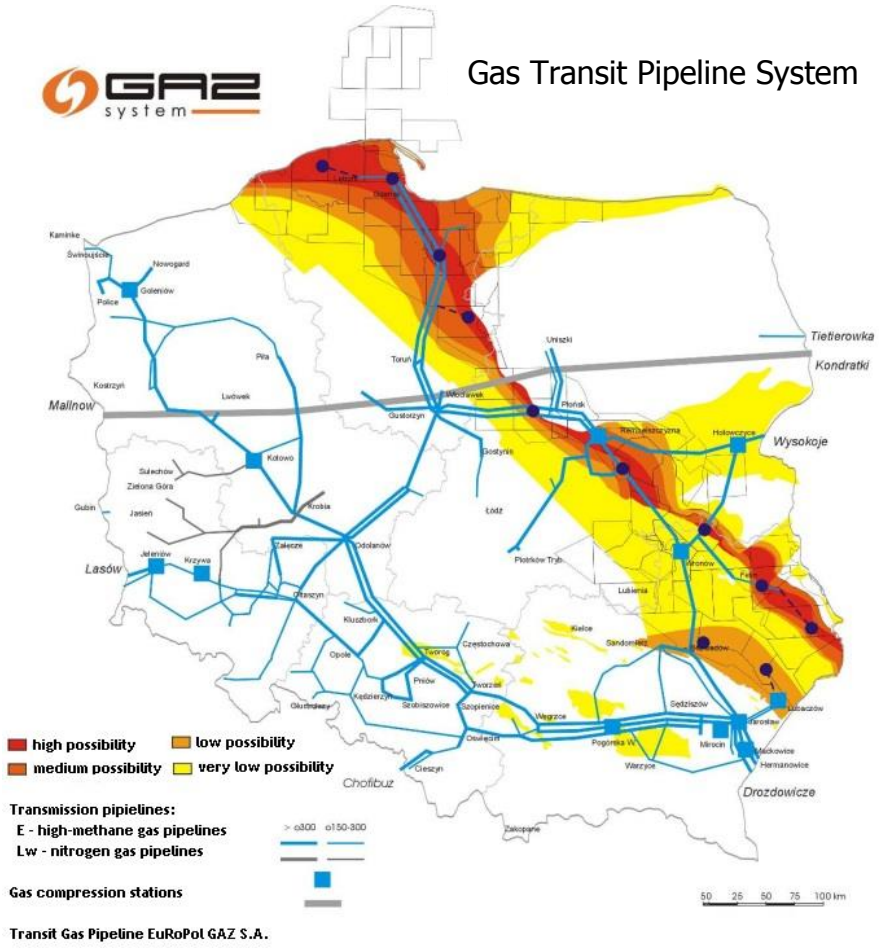
Directions of supply

Domestic gas demand is covered with gas obtained from mines located in the territory of Poland and gas imports. Due to the limited own resources, the supply structure is dominated by the imported gas. For many years import has been carried out more or less on the same level of approximately 10-11 bcm/year, which represents more than 75% of the total annual volume of gas supplied through the transmission system to customers. Availability of the currently identified gas resources allows to assess that the supply situation in the future will look alike, although in the coming years the share of imports in the gas supply may grow. Changes in the structure of supply can be brought by rapid development of gas extraction from the new unconventional sources, which are currently at the stage of recognition.

At the end of 2010, it was estimated that Poland has extractable reserves of natural gas in the amount of approximately 95,1 bcm of gas (in equivalent of high-methane gas). The annual rate of depletion of deposits stands at 4% per annum. Due to the launch of new wells (but with a relatively small production of gas) it is anticipated that in the near term the volume of extraction of natural gas from conventional sources should not be subject to significant changes. At the same time the Energy Policy of Poland until 2030, under the actions identified as necessary to ensure the energy security of the country, points to the increasing of natural gas extraction possibility. However, the analyses assume that the extraction of gas from domestic sources will remain at the same level.

In addition to conventional natural gas deposits, geological structures were recognized in the territory of Poland, in which natural gas contained in a silty mudstone rocks can be present, in other words shale gas and tight gas, occurring most commonly in sandstones. Location of shale gas resources is shown in the figure 21. Furthermore, it is also potentially possible to recover gas from coal deposits. Gas extraction from unconventional sources could bring significant changes to the national balance of gas and result in the reduction of imports, as well as improve the energy security of Poland.

Figure 21. Location of shale gas resources



Source: Development plan of OGP Gaz–System SA for the years 2014–2023.

Most recent estimates of the quantities of unconventional gas possible to extract in the coming years, come from the "Impact Assessment of the draft act amending the Act on Geological and Mining Law", developed by the Ministry of Environment. This document defines two extraction scenarios: simple and nonlinear. In a simple scenario it was specified that extraction will start in three years, and in 2018 it can be expected at the level of approximately 0,5 bcm of gas, and further in 2023 around 0,8 bcm. According to the non-linear scenario, in 2023 extraction may amount to approximately 3,0 bcm.

Therefore, import will continue to be the primary source of meeting the increased demand for gas. Taking into account the supply of gas from domestic sources on a constant unchanged level, in the analysis of scenarios of possible directions of supplying the transmission system, it is assumed that the importance of gas imports will be growing until 2023. Depending on the scenario, customer demand can amount to between 18,2 and 23,7 bcm in 2018 and between 18,9 and 25,5 bcm in 2023. Those needs will be to significant extent covered with imported gas. In connection with the above, the conditions of construction of new interconnections in the longer term are being analysed, and among them:

- construction of the interconnection between the Polish and Czech transmission systems (perspective of 2018). The project provides for the construction of a new interconnection of the Polish and Czech systems, with a capacity of approximately 6,5 bcm/year, in the framework of North-South Corridor. In accordance with the assumptions, the interconnection shall enable bi-directional flow of gas. The project is at the stage of preliminary preparatory works carried out jointly with the Czech transmission system operator. According to the current schedule, the interconnection can be completed by 2018,
- construction of the interconnection between the Polish and Slovak transmission systems (perspective of 2019). The project provides for the construction of an interconnector of the Polish and Slovak systems, with a capacity of approximately 5,7 bcm/year, in the framework of North-South Corridor. In accordance with the assumptions, the interconnection shall enable bi-directional

flow of gas. The project is at the stage of preliminary preparatory works carried out jointly with the operator of the Slovak transmission system. According to the current schedule, the interconnection can be completed by 2019, however, if the construction of interconnection between Poland and Czech Republic is not confirmed, Poland-Slovakia interconnection can be completed earlier (by 2018), together with the investments constituting the southern part of the North-South Corridor,

- increase of the possibility of importing gas from Germany (2018 perspective). Depending on market conditions, it can be expected to ensure capacities higher than the capacities currently prearranged between German market areas of Gaspool/NCG and the national market area. This will be possible by increasing the technical capacity of existing, or by building new interconnection points. Works in this scope are at an early stage of analysis. On the basis of the current assessment, the need to increase capacities may occur before 2018, but this will be confirmed in advance through market consultations,
- construction of the interconnection between the Polish and Lithuanian transmission systems (perspective of 2023). The project provides for the construction of a new interconnection of the Polish and Lithuanian systems, with a capacity of approximately 2,4-4,1 bcm/year. In accordance with the assumptions, the connection shall enable bi-directional flow of gas. The project is at the stage of preliminary preparatory works carried out jointly with the operator of Lithuanian transmission system. According to the current schedule, the connection may be completed during the period 2019-2023,
- extension of the regasification capacity of the LNG terminal in Świnoujście (2023 perspective). According to initial assumptions of the project, terminal has a possibility to extend the regasification capacity to around 7,5 bcm/year, which, depending on the market demand, could be made available already before 2020. Thanks to the extension of the terminal it will be possible to provide access to the global gas market to customers located in Poland and other countries of the Central and Eastern Europe,
- construction of the interconnection between the Polish and Danish transmission systems – Baltic Pipe (2023 perspective). The project provides for the construction of an interconnector between the Polish and Danish systems, which should allow, in the future, for direct supply of gas from the North Sea to Poland and other countries of Central and Eastern Europe. The parameters of the project are not defined yet, because at the moment there is lack of sufficient data on the size of demand for gas transmission in this direction. It shall be expected that as the demand for gas grows, and the integration process of the transmission systems in the region proceeds, direct supply from the North Sea could become an interesting direction of gas transmission for both customers and suppliers. The project is now at the stage of preliminary preparatory works carried out in collaboration with the Danish transmission system operator.

Those investment tasks are included in the draft Development Plan for the years 2014−2023, and the works related to them will be continued in the coming years. Investment decisions will be taken bearing in mind the implemented variant of gas demand forecast and the associated scenario of transmission system development.

4.3.3. Measures to cover peak demand or shortfalls of suppliers

The monitoring of the security of gas supply conducted in 2013 was focused on those areas of market operation, which refer to the activities described below, with particular emphasis on the issues related to:

- **licences**

In case of licence for foreign trade in natural gas, the ability of an entity to create obligatory reserves, that have an influence on the security of supply, is taken into consideration. The entity applying for such licence has to: possess its own storage capacities, have a preliminary agreement for the provision of storage services concluded, or obtain an exemption from the obligation of maintaining obligatory reserves (through an administrative decision issued by the Minister of Economy). Moreover, the President of ERO, when issuing the licence, informs the entrepreneur about the obligation to ensure the adequate level of supply diversification, in accordance with the Regulation of the Council of

Ministers of 24 October 2000 on the minimum level of diversification of foreign natural gas supplies[37]. The issued licences for foreign trade in natural gas include the obligation to ensure the diversification of gas supply.

- **tariffs**

Monitoring the security of gas supply is also performed indirectly within the tariffication process of the infrastructure undertakings. During the tariffication proceedings the scope of financing the assets (transmission, distribution, storage and liquefied gas installations) required for supplying fuels to customers is settled. The level of investment outlays for network assets, as well as the amounts designated for repairs and modernisation of those assets, determine its physical condition, i.e. operational security. Review of the annual and quarterly reports presented by the companies of the PGNiG SA Capital Group and OGP Gaz-System SA show, that the approved tariffs allowed for the financing of the investment and modernisation projects, as well as for repairs.

- **approving the plans of introducing restrictions to the natural gas consumption, developed by the operators**

Operators of the transmission, distribution and combined systems submit, for the approval of the President of ERO, the plans of introducing restrictions to the natural gas consumption in case of emergency situations. Developing such plans shall facilitate ensuring the security of natural gas supply in case of: a threat to the national fuel security, unexpected increase in the natural gas consumption by customers, occurrence of a disruption in the import of natural gas, a failure in the networks of gas system operators, a threat to the safety of persons, a threat of a substantial property damage and the need to fulfil the international obligations by the Republic of Poland.

- **aggregation of information provided to the President of ERO, pursuant to Article 27, paragraph 2 of the Act on Stocks, by energy undertakings conducting business activity in the scope of natural gas imports for the purpose of its further resale to customers**

Pursuant to Article 27, paragraph 2 of the Act on Stocks, energy undertakings performing business activity in the scope of natural gas imports for the purpose of its further resale to customers, submit, to the Minister of Economy and the President of ERO, information on activities undertaken in the period between 1 April of the previous year and 31 March of a given year, in order to (1) assure the fuel security of the country in the scope of foreign trade in natural gas, and (2) fulfil the obligation to maintain obligatory reserves of natural gas, by 15 May of each year.

- **agreeing draft development plans of gas network undertakings**

Agreeing the draft development plans with the President of ERO allows for monitoring the initiatives necessary for maintaining the required level of reliability and quality of the provided network services. It is aimed at defining the justified level of investment outlays which ensures the minimisation of expenditure and costs incurred by those undertakings, so that the costs would not cause an excessive growth of gas prices and charges in the succeeding years, while at the same the continuity, reliability and quality of supply is ensured.

- **determining, through a decision, and monitoring obligatory reserves of gaseous fuels**

For the Regulator, the above is yet another source of information relevant for the evaluation of the security of gaseous fuels' supply. The purpose of those obligations is to ensure the supply of natural gas to the Republic of Poland, and to minimize the effects in case of a threat to the fuel security of the country, an emergency situation in the gas network, and an unexpected increase in natural gas consumption.

- **monitoring the level of gas supply diversification**

An important element of ensuring energy security of the country is the diversification of sources of natural gas supply from abroad, according to the volumes specified in the regulation on the minimum level of diversification of foreign gas supplies. Those volumes determine, for the period from 2001 to 2020, the maximum share of gas imported from one country of origin in the total amount of gas imported in a given year. According to the provisions of the aforesaid regulation, in the years 2010–2014 the maximum share of gas imported from one country of origin in the total amount of gas imported in a given year cannot be higher than 70%.

The President of ERO conducts annual monitoring of the diversification level of foreign gas supplies and analyses compliance with the provisions of the above-mentioned regulation by entities holding licences for foreign trade in natural gas.

In 2013 the President of ERO once again carried out the monitoring of the level of diversification of natural gas supplies executed by the licencees, concerning the fulfilment of the aforementioned

[37] Journal of Laws of 2000, No. 95, item 1042.

obligation in 2012. The monitoring encompassed 27 licencees, who in 2012 held licences for foreign trade in natural gas. The conducted monitoring of the level of diversification of gas supplies from abroad proved that six licencees imported natural gas. Those imports comprised both import and intra-Community acquisition. At the same time, three licencees imported natural gas using the virtual reverse flow mechanism. In contrast, twenty-one licencees reported that they had not imported natural gas from abroad in 2012 under the licences for foreign trade in natural gas held by them, either through import or intra-Community acquisition.

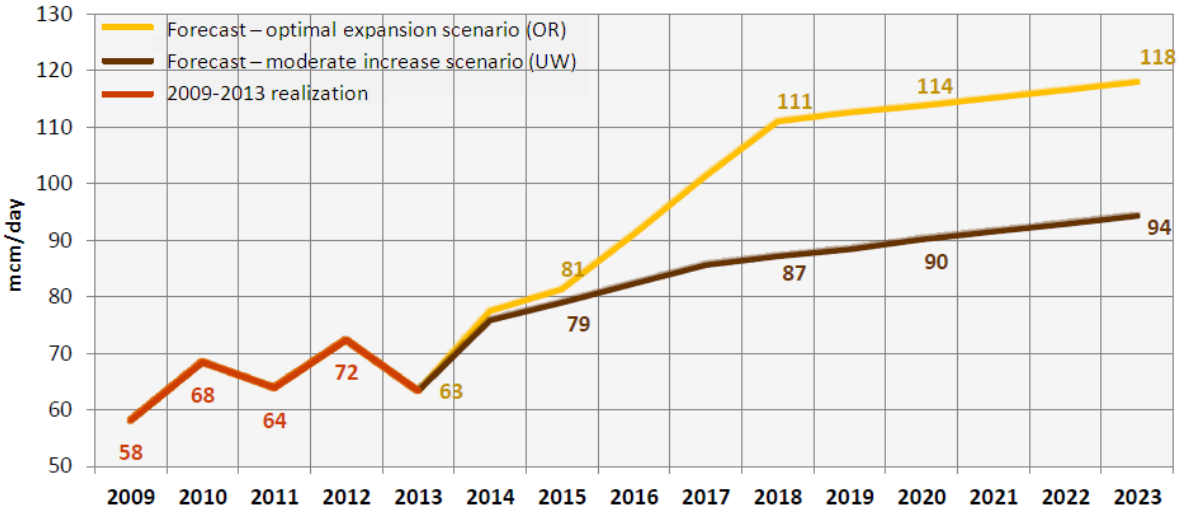
On the basis of information provided by the licencees it was ascertained that four licencees failed to fulfil the obligation to diversify gas sources. Those entrepreneurs will be subject to proceedings on imposing a penalty pursuant to Article 56, paragraph 1, point 12 of the Energy Law Act, for failure to comply with the obligation of diversification of gas supplies from abroad, and thus violating the conditions of the licences for foreign trade in natural gas.

- **trading limits as regards gaseous fuel supplies introduced in 2013**

  In 2013 trading limits as regards gaseous fuel supplies were not introduced.

The forecast of peak demand that determines maintaining of the safe system operation under all conditions, and securing the supply under relevant gas parameters (power and pressure) to all customers in accordance with the signed contracts, is important for the development of the transmission system. Figure 22 shows the forecasted growth in peak demand in the transmission system for the years in which the new development plan of OGP Gaz-System SA will be in force, in two considered scenarios.

Figure 22. Forecast of peak demand in the national system for the subsequent years in which the development plan of OGP Gaz-System SA will be in force



Source: Summary of the draft development plan of OGP Gaz-System SA submitted for public consultations, July 2013.

According to the assumptions of the Energy Policy of Poland until 2030, it is essential to ensure appropriate conditions for diversification of supplies and improve their security within the current development plan. The issue of meeting the demand is rather the result of implementing activities in the area of diversification of directions and sources of supply, so there is no direct pivotal relevance to the investment decision-making. Analysed variations in demand for transmission service resulting from the domestic demand assume increases determined primarily by the development of energy generation based on natural gas.

5. CONSUMER PROTECTION AND DISPUTE SETTLEMENT IN ELECTRICITY AND GAS

5.1. Consumer protection

Compliance with Annex 1 to directives 2009/72/EC and 2009/73/EC

In September 2013 the provisions amending the Energy Law Act came into force, implementing i.a. provisions contained in annex 1 to directives 2009/72/EC and 2009/73/EC.

The provisions oblige DSO to enable customers of gaseous fuels or electricity to switch supplier within 21 days, determine the system of vulnerable customers' protection based on housing allowance and introduce out of court dispute resolution mechanism for household customers. Under the amended provisions of the Energy Law Act the consumer gained right to receive final settlement with the current supplier no later than within 42 days from the day of supplier switching.

Moreover, the President of ERO was obliged to develop, in cooperation with the President of UOKiK, a checklist of electricity and gaseous fuels consumer rights. The document contains practical information on the rights of consumers of electricity and gaseous fuels. According to the provisions of the Energy Law Act, a copy of this document has to be delivered to every household customer. This obligation was imposed on suppliers of electricity and suppliers of gaseous fuels, who in addition have to assure public access to this document. At the same time, the President of ERO was obliged to announce the checklist of rights in the Public Information Bulletin of ERO. In the fourth quarter of 2013 the President of ERO in cooperation with the President of UOKiK, after consultation with the Polish Consumer Federation and the Association of Polish Consumers, as well as representatives of suppliers and distribution system operators, prepared separate Checklist of Electricity Consumer Rights and Checklist of Gaseous Fuels Consumer Rights. The copies of those documents were made available on the ERO website in the Public Information Bulletin of ERO.

Consumer right to conclude agreements guaranteeing hones and transparent conditions regarding receiving compensations and return of payments, the consumer right to file complaints and settle disputes

Pursuant to the provisions of the Energy Law Act, every energy undertaking involved in the transmission or distribution of gaseous fuels or energy is obliged to provide every customer and supplier, on the basis of equal treatment rule, with transmission or distribution services of those fuels or energy. Provision of services is carried out on the basis of a contract that the undertaking is obliged to conclude. The undertaking is also obliged to conclude, with an entity which is to be connected to the network, a connection agreement, if the technical and economic conditions for connection and off-take exist. On the basis of the provisions of the Energy Law Act, the default supplier is obliged to provide the complex service and conclude the common service agreement (an agreement comprising provisions of sales agreement and an agreement for the provisions of distribution services), on the basis of equal treatment rule, with the customer of gaseous fuels or electricity in household, who does not exercise the right to switch supplier. Undertakings providing services of gaseous fuels storage and natural gas liquefaction are also obliged by the law to conclude, with customers, agreements on the basis of which those services shall be provided.

The provisions of the Energy Law Act specify the minimum catalogue of issues that should be addressed in the agreements. The agreement for connection to the network should specify, inter alia, deadline for the connection, the connection schedule and the expected date of concluding the contract. The contract for the provision of distribution services should in turn define, i.a. the quality standards and conditions to ensure the reliability and continuity of supply of gaseous fuels or energy, as well as technical parameters of gaseous fuels or energy, and the amount of compensation for failure to meet those parameters and quality standards of customer service. The sales agreement or common service agreement should also specify the parties to the contract, as well as include information on the customer rights, including the way of filing complaints and settling disputes; the possibility of obtaining assistance in the event of failure, and the place and manner of

familiarizing oneself with the applicable tariffs, including charges for maintenance of the gas or electricity system.

Moreover, every agreement should specify its duration and conditions of its termination. All terms of the agreement must be known to the customer in advance. Energy undertakings are obliged to immediately provide customers with the drafts of contracts (sales agreement, the contract for the provision of transmission or distribution services of gaseous fuels or energy, common service agreement, contract on the provision of gaseous fuels storage service and contract on the provision of natural gas liquefaction service), or drafts of introducing changes to the concluded agreements, with the exception of changes in prices or fees specified in the approved tariffs. If the contracts are to be amended, together with the draft amended agreement, a written notice of the right to terminate the contract shall be sent.

Household customer, who concluded an agreement outside the business premises of an undertaking (i.a. at home, apartment or at any other place outside the premises, e.g. at the street or during an organised event), may withdraw from it without providing reasons, within 10 days from the conclusion of the contract, by submitting, in writing, an appropriate statement to the energy undertaking with which the agreement was concluded. This statement may be filed in person at the premises of the undertaking, or by post, preferably with return receipt requested, before the expiry of that period. The exception is the situation, in which the energy consumer have not received information in writing about the right to withdraw from the contract. Then, the ten-day deadline does not start. In this case, the consumer may cancel the contract within 10 days from the date of obtaining information about the right to withdrawal. However, this may not serve as a justification for withdrawal of the consumer three months after the contract's implementation. The situation is similar in the case of distance contracts.

Consumer right to obtain information about prices and charges applied by energy undertakings and, in case of their change, the right to obtain notice about any intention to introduce changes to the agreement and information about the right to withdraw from the agreement after receiving such notice

Pursuant to the provisions of the Energy Law Act, the gas and electricity suppliers who supply the final customers are obliged to publish on their websites and make publicly available at their premises, information on sale prices of fuels and energy, as well as the conditions of their application. At the same time, as it was indicated above, energy undertakings are obliged to promptly provide the customers with all drafts of changes that will be introduced to the concluded agreements, and along with the draft of changes, the undertakings are obliged to submit a written information about the right to terminate the agreement in case of a lack of acceptance. Moreover, the customers are informed, by the supplier, about every rise in prices or rates of charges for supplied gas or electricity, specified in the approved tariffs. The supplier is obliged to give notice to the customer within one settlement period from day of the rise. The customer should be notified in a transparent and understandable way.

Consumer right to choose the method of payment. Employing estimation methods guaranteeing accurate forecasts of the consumption (in case of settlements based on forecasts)

Providing consumers with possibility to submit payments in various forms was the subject of the recommendation of the President of ERO, directed to the undertakings of the electricity sector (Set of Good Practice). In practice, energy undertakings allow for various payment methods, and the customer has the right to choose this method, e.g. in the form of direct debit, bank transfer (including via the Internet), payment at the post offices or other designated places (e.g. chosen store chains), as well as possibility to pay invoices in cash at the customer service points of energy undertakings.

The issues connected with applying settlements based on forecasts are regulated by the Minister of Economy in the provisions of executive regulation to the Energy Law Act:

- settlement period for I-IV connection groups should not be longer than two months, and for customers in the V connection group (household consumers) it cannot be longer than one year. The settlement periods determined in the tariff of an undertaking performing complex service are

correlated with the settlement periods of an undertaking performing distribution service for its customers,

- if the settlement period is longer than one month, during this period fees for electricity and for transmission and distribution services of this energy can be charged in the amount determined on the basis of the forecasted electricity consumption in this period, based on the volume of electricity consumption determined on the basis of actual readings of metering and billing equipment, conducted in the analogical period of the preceding calendar year. In those forecasts significant changes in electricity consumption declared by the customer are taken into account.

Consumer right to switch supplier within the three-week period and to receive final settlement with the previous supplier within 6 weeks

Pursuant to the provisions of the Energy Law Act, energy undertaking carrying our transmission or distribution of gaseous fuels or energy, while applying objective and transparent rules ensuring equal treatment of system users, enables customer of gaseous fuels or energy connected to its network to switch supplier upon conditions and procedure specified in separate provisions.

Customer can terminate an agreement concluded for indefinite period without bearing any costs, by submitting written statement. However, this customer has to cover all the amount due for the off-taken gaseous fuel or consumed energy and for provided transmission or distribution services of gaseous fuels or energy. An agreement concluded for a fixed term can also be terminated by the customer, without bearing any costs or compensations other than those stipulated in the agreement.

In case of households the notice period for contract termination is determined by the provisions of law. Such an agreement is terminated on the last day of the month following the month in which the customer's statement was received by the energy undertaking. This customer may also indicate a later date of contract termination.

Distribution system operators are obliged to implement the procedure of supplier switching no later than within 21 days from the day of notifying the relevant operator about the conclusion of a supply agreement with new supplier.

Previous suppliers are obliged to make final settlement with customer no later than within 42 days from the day of supplier switching. In order to ensure real possibility to fulfil this obligation, system operator is obliged to provide the previous and the new supplier with data concerning the volumes of gaseous fuels or energy consumed by the customer, within the period enabling the previous supplier to make settlements with the customer.

Consumer right to benefit from the transparent, simple and inexpensive procedures for investigating complaints with the use of out-of-court system. Institution of customer ombudsman as a support for customers and an alternative mechanism to investigate disputes

Since 10 April 2012 the Arbitration Court for Energy Matters at the Chamber of Industrial Energy and Energy Customers in Warsaw has been functioning. Moreover, there are also Municipal and District Consumer Ombudsmen in Poland, to whom customers can complain in individual cases including the energy-related cases. The detailed information on matters dealt with by the Arbitration Court and on its functioning, as well as on the scope of activity of Municipal and District Customer Ombudsmen were described in the National Report 2012.

Household customers have also the possibility to take advantage of permanent consumer arbitration courts of the Trade Inspection. The fees for registration are not very high. Since September 2013 competences of the arbitration courts, acting on the basis of the provisions of the Act of 15 December 2000 on the Trade Inspection, have been expanded to jurisdiction in respect of settling disputes arising from sales agreements, agreements for the provision of transmission or distribution services and common service agreements, as well as network connection agreements, concluded between energy undertaking and household customer of gaseous fuel or electricity.

Moreover, sales agreement or common service agreement should contain i.a. information about the way of filing complaints and settling disputes. At the same time, the supplier of gaseous fuels or

electricity has been obliged to inform household customers about their rights, including the way of filing complaints and settling disputes.

The competence of the President of ERO in respect of settling disputes were described in detail in point 5.2. However, it should be noted that the Regulator settles disputes under administrative regime which does not fully correspond to the alternative dispute settlement mechanisms.

Notwithstanding the above, it should be indicated that the tasks of the President of ERO include also conducting information activities addressed to the electricity and gas customers, including providing information via comprehensive information point, with an info-line to inform and promote the right to switch supplier. In order to carry out this tasks, within the structure of ERO there is an Information Point for Fuel and Energy Customers, where customers can obtain information and advice regarding their rights (by phone, in writing, as well as electronically). Detailed information on the activity of the Point as well as contact data have been posted on the ERO website.

Public service obligations

As a result of unbundling, on 1 July 2007, DSOs from the biggest vertically integrated undertakings, energy undertakings involved solely in distribution of electricity or gas, as well as gas or electricity trading companies emerged on the electricity and gas markets.

The distribution undertakings unbundled from the biggest incumbent companies were designated distribution system operators by the President of ERO. Currently, there are five big electricity DSOs and one big gas DSO. The trading companies ("incumbent suppliers") on the other hand were obliged, under the Energy Law Act, to carry out the tasks of default suppliers for customers who have not decided to switch supplier. Incumbent suppliers act as default suppliers until the designation of those suppliers by tender or under a decision of the President of ERO. In 2013 no tender procedure was held. The vast majority of household customers have concluded, with the default suppliers, the so-called common service agreements, containing the terms and conditions of both sale and transmission or distribution service agreements. Moreover, the default supplier is obliged to ensure the provision of complex service and conclude common service agreement, on the basis of the equal treatment rule, with household consumers who do not exercise their right to switch supplier and is connected to the network of an energy undertaking indicated in the default supplier's licence. It is worth underlining that the household consumer who terminates the common service agreement, within the notice period envisaged in the agreement, cannot be charged by the default supplier with any additional costs other than those specified in the agreement.

On the electricity market there are also more than 150 suppliers who function as vertically integrated industrial energy undertakings, providing at the same time distribution services. There are around 20 suppliers in the gas market.

Vulnerable consumer protection

Novelization of the Energy Law Act that came into force in September 2013 introduced the definition of vulnerable consumer of electricity and vulnerable customer of gaseous fuels, and established system of financial support for those consumers. Definitions of vulnerable consumer refer to the law on housing allowances. Financial support system provides for payment of energy allowances by municipalities to customers, who were granted housing allowance (electricity consumers) or lump sum for purchase of fuel (gaseous fuels consumers), and who are, respectively, a party to the common service agreement or electricity or gas supply agreement, and reside in the place to which this energy or fuels are supplied. At the same time municipalities were provided with funds for payment of the aforesaid allowances. Those funds will come from the designated subsidy of the state budget.

Customers can also turn to energy undertakings for help in order to take advantage of the programs implemented within the framework of corporate social responsibility (CSR).

Ensuring access to consumption data

Pursuant to Article 5, paragraph 6c of the Energy Law Act, electricity suppliers are obliged to inform their customers about the volume of electricity consumed by those customers in the previous

calendar year, about the place where information on average electricity consumption for a given energy group of connected customers is provided, as well as on the measures to improve energy efficiency and technical characteristics of energy efficient devices.

In addition, undertaking providing distribution service or supplier who provides the complex service, when issuing an invoice for the consumer shall, in a settlement attached to the invoice, provide information, inter alia, on:

- the volume of electricity consumption in the settlement period, on the basis of which the amount due was calculated,
- the way of conducting the reading of the metering and billing system, whether it was physical or remote reading made by the authorized representative of the energy undertaking, or the reading made and reported by the consumer,
- the method of determining the level of electricity consumption when the settlement period is longer than a month and the first or last day of the settlement period does not coincide with the dates of the readings of the metering and billing system, or if during the course of the settlement period there was a change in the prices or fees, or about the place where the information is available.

5.2. Dispute settlement

The President of ERO carries out its tasks in the scope of dispute settlement, provided for in Article 37, paragraph 11 of directive 2009/72/EC and Article 41, paragraph 11 of directive 2009/73/EC, pursuant to Article 8 of the Energy Law Act.

Pursuant to the aforesaid provision, the President of ERO settles only disputes in matters connected with a refusal to conclude network connection agreement, sales agreement, agreement on the provision of transmission or distribution services of fuels or energy, agreement on the provision of transport services of natural gas, agreement on the provision of storage services, agreement on the provision of natural gas liquefaction services, and common service agreement, as well as unjustified stoppage in the supply of gaseous fuels or electricity. It should be noted that the above-mentioned scope of matters concerns the enumerated cases and regards solely and exclusively the future contractual relations between energy undertakings and customers. The decisions of the President of ERO are subject to control of the Court of Competition and Consumer Protection.

In 2013 the majority of proceedings conducted pursuant to this provision concerned the refusal to conclude the agreements on connecting to the electricity grid (mainly regarding RES) due to a lack of technical or economic conditions. Connection to the gas network was much more rarely a subject to proceeding before the President of ERO. Moreover, the President of ERO settled disputes regarding refusal to conclude an agreement on the provision of transmission or distribution services.

In respect to issues related to connection to the electricity grid, the recorded complaints and motions concerned mostly the prolonged execution date of the network connection agreement. As the reason for not keeping the date of the agreement execution, the undertakings most frequently pointed out to the difficulties in collecting relevant documentation and obtaining permissions required by law, problems with placing equipment on the land properties of private owners (the issue of setting an adequate easement) and not fulfilling by the connected entity obligations imposed on it by the connection agreement.

It should be underlined that the President of ERO lacks competence to settle disputes connected with agreements already concluded. However, a significant number of disputes between customers and energy undertakings arise with regard to the concluded agreements, whereas such cases lay within the jurisdiction of a general court.