

RES AUCTIONS 2020 – THE REFERENCE PRICES FOR AUCTIONS IN 2020 ANNOUNCED

The reference prices for RES auctions and the period for which support will be provided under the auctions to be held in 2020 have been announced. Intensive work with regard to other regulations favourable to the RES sector is also ongoing.

Reference prices for electricity

The Ordinance of the Minister for the Climate on reference prices for electricity in auctions to be held in 2020 was published in the Journal of Laws on 4 May 2020. In the ordinance the Minister for the Climate also specified that the period within which the winners of the 2020 auctions will be entitled to receive support will be 15 years (i.e. the same length of time as in the case of RES auctions organised in Poland earlier).

The values of part of the reference prices are identical to the reference prices set for 2019¹. In the case of RES technologies which to date were less popular in auctions, the Ministry of Climate has decided to increase the reference prices in relation to last year's prices, however in the case of onshore wind farm and photovoltaic installations, the reference prices have been reduced.

Reference prices for new installations:

- onshore wind farms with a total installed capacity of not more than 1 MW – PLN 320/MWh (the same as in 2019);
- onshore wind farms with a total installed capacity of more than 1 MW – PLN 250/MWh (PLN 285/MWh in 2019);
- photovoltaic farms with a total installed capacity of not more than 1 MW – PLN 360/MWh (PLN 385/MWh in 2019);
- photovoltaic farms with a total installed capacity of more than 1 MW – PLN 340/MWh (PLN 365/MWh in 2019).

It should be recalled that reference prices are the maximum prices that an investor can offer in a tender bid for a RES project participating in an auction (bids with a higher price will be invalid).

The ordinance will come into force on 19 May 2020.

¹ We wrote about the reference prices and the results of the 2019 auctions [here](#) and [here](#).

Dates of subsequent auctions

It is not yet known when this year's auctions will be held.

At the beginning of this year the Deputy Minister of State Assets announced that RES auctions would be held in 2020 in two rounds – the first round to be held in mid-2020 and the second one in Q4 2020². It is now certain that the first auction which was scheduled to take place in mid-2020 will not be held; it is expected that the RES auctions will take place in the autumn.

Apart from the delays caused by the COVID-19 pandemic, the holding of auctions in 2020 is also delayed by the need to modernise the IPA (Internet Auction Platform) IT system via which the President of the Energy Regulatory Office (ERO) organises auctions. Towards the end of April the ERO announced a tender concerning the development of the IPA system and its maintenance. After the tender is resolved, the ERO is planning to prepare the draft schedule of the auctions in mid-2020.

The date of an auction must be announced at least 30 days in advance. Prior to announcing an auction, the President of the ERO agrees the draft timetable of the auctions, covering the planned dates of the auctions and the volume and value of the energy offered in the individual auctions, with the Minister for the Climate.

Addressing the expectations of investors, the Ministry of Climate and the ERO have declared their desire to determine the auction parameters and the initial schedule of auctions also for subsequent years. It may, however, be expected that the maximum volumes and value of electricity intended for auctions in 2021 will most probably be announced only after the 2020 auctions are finalised.

Pursuant to the regulations currently in force, the last auction for the sale of electricity generated from RES can be held not later than by 30 June 2021.

Organizations representing the renewable energy industry and banks financing projects are postulating for an extension of the RES support system to subsequent years. According to the assurances of the Ministry of Climate, it is analysing this primarily with the intent of moving towards a stable and balanced development of renewable energy sources in Poland. The Energy Regulatory Office is also in favour of the extension of the auction system currently in place, noting that the auction system proved very attractive to producers. However, an extension of the auction support system must be notified to and approved by the European Commission, which may take many months.

Anti-crisis shield and RES auctions

In the recent weeks the winners of RES auctions in previous years and those producers who will participate in the auctions to be held this year and in subsequent years, have also been covered by anti-crisis measures in connection with the ongoing COVID-19 epidemic.

² <https://gramwzielone.pl/trendy/102283/dwie-rundy-aukcji-w-2020-r-nowelizacja-ustawy-nie-bedzie-potrzebna>

As part of the anti-crisis shield amendments have been introduced to the Act on RES thanks to which the winners of RES auctions who, as a result of the situation caused by COVID-19, will not be able to comply with the statutory deadlines for the first sale of electricity from installations under the support system will not be penalised. Pursuant to the regulations already in force, the winners of the auctions may apply for an individual extension of the deadline for the fulfilment of the requirements to be covered by the support system by 12 months,³ if the delay was caused by the state of epidemic threat or state of epidemic.

Work on other regulations for the RES sector is ongoing

Offshore

Further intensive work on the draft act of law on the promoting of the generation of electricity in offshore wind farms is continuing. The legislation is to introduce a dedicated support system for offshore wind energy and to improve the process of development of offshore wind farm projects in the Polish exclusive economic zone in the Baltic Sea and make it more efficient. Consultations on the draft legislation are being conducted despite the obstacles connected with the pandemic. Work on the draft is to be finished in the first decade of May. Next, it will be submitted to the Council of Ministers and then the Sejm.

The government's representatives have declared that the intention is for the act on the promoting of the generation of electricity in offshore wind farms to be signed by the president still before the Sejm's summer recess.

Wind Farm Distance Act

The Ministry of Development is working on an amendment to the act on investments in the wind energy sector, which is to result in the optimisation of the rules of locating the construction of onshore wind farms. In practice, under specific terms and subject to the participation of local communities in the decision-making process being guaranteed, the so-called "10h rule", which currently prevents the development of new wind farm projects within a distance of less than 10 times the height of the wind turbine from existing or planned residential buildings, is to be relaxed. The amendment, once it becomes a fact, will facilitate the development of new green field projects, which was practically impossible from mid-2016.

³ Let us recall: investors have 24 months (in the case of photovoltaic projects) and 33 months (in the case of onshore wind farms) from the auction closing date to meet the requirements for being covered by the support system.

Summary of selected parameters of the 2019 and 2020 auctions

	Reference Price in 2019	Price range in 2019 winning auction bids	Average price in 2019 winning auction bids	Reference Price for 2020	Maximum volumes and budgets for 2020 auctions
small onshore wind farms (≤ 1 MW)	320 PLN/MWh	269 PLN/MWh - 327 PLN/MWh	PLN 317.69	320 PLN/MWh	11 760 000 MWh PLN 4 527 600 000
small PV projects (≤ 1 MW)	385 PLN/MWh			360 PLN/MWh	
large onshore wind farms (> 1 MW)	285 PLN/MWh	162.83 PLN/MWh – 233.29 PLN/MWh	PLN 208.49	250 PLN/MWh	46 290 000 MWh PLN 14 015 850 000
large PV projects (> 1 MW)	365 PLN/MWh			340 PLN/MWh	

Comparison of reference prices for RES installations in 2019 and 2020

No.	Reference price for RES sources (new and existing as well as modernised)	2019	2020
1.	Using agricultural biogas to produce electricity (< 500 kW)	PLN 650.00/MWh	PLN 650.00/MWh
2.	Using agricultural biogas to produce electricity in high-efficiency cogeneration (< 500 kW)	PLN 700.00/MWh	PLN 760.00/MWh
3.	Using biogas obtained from landfills to produce electricity (< 500kW)	PLN 560.00/MWh	PLN 560.00/MWh
4.	Using biogas obtained from landfills to produce electricity in high-efficiency cogeneration (< 500 kW)	PLN 620.00/MWh	PLN 620.00/MWh
5.	Using biogas obtained from sewage treatment plants to produce electricity (< 500 kW)	PLN 420.00/MWh	PLN 420.00/MWh
6.	Using biogas obtained from sewage treatment plants to produce electricity in high-efficiency cogeneration (< 500 kW)	PLN 480.00/MWh	PLN 510.00/MWh
7.	Using biogas other than specified in points 1, 3 and 5 to produce electricity (< 500 kW)	PLN 470.00/MWh	PLN 470.00/MWh
8.	Using biogas other than specified in points 4 and 6 to produce electricity in high-efficiency cogeneration (< 500 kW)	PLN 530.00/MWh	PLN 530.00/MWh
9.	Using hydropower to produce electricity (< 500 kW)	PLN 550.00/MWh	PLN 620.00/MWh
10.	Using agricultural biogas to produce electricity (≥ 500 kW ≤ 1 MW)	PLN 590.00/MWh	PLN 590.00/MWh
11.	Using agricultural biogas to produce electricity in high-efficiency cogeneration (≥ 500 kW ≤ 1 MW)	PLN 670.00/MWh	PLN 700.00/MWh
12.	Using agricultural biogas to produce electricity (> 1 MW)	PLN 570.00/MWh	PLN 570.00/MWh
13.	Using agricultural biogas to produce electricity in high-efficiency cogeneration (> 1 MW)	PLN 640.00/MWh	PLN 670.00/MWh
14.	Using biogas obtained from landfills to produce electricity (≥ 500 kW)	PLN 550.00/MWh	PLN 550.00/MWh
15.	Using biogas obtained from landfills to produce electricity in high-efficiency cogeneration (≥ 500 kW)	PLN 610.00/MWh	PLN 610.00/MWh
16.	Using biogas obtained from sewage treatment plants to produce electricity (≥ 500 kW)	PLN 385.00/MWh	PLN 385.00/MWh

17.	Using biogas obtained from sewage treatment plants to produce electricity in high-efficiency cogeneration (≥ 500 kW)	PLN 445.00/MWh	PLN 475.00/MWh
18.	Using biogas other than specified in points 12, 14 and 16 to produce electricity (≥ 500 kW)	PLN 435.00/MWh	PLN 435.00/MWh
19.	Using biogas other than specified in points 13, 15 and 17 to produce electricity in high-efficiency cogeneration (≥ 500 kW)	PLN 495.00/MWh	PLN 495.00/MWh
20.	Combustion of biomass or in hybrid installations	PLN 435.00/MWh	PLN 465.00/MWh
21.	Thermal conversion of waste products or in a dedicated multi-fuel firing unit	PLN 350.00/MWh	PLN 350.00/MWh
22.	Thermal conversion of waste products, in a dedicated biomass firing unit or hybrid units, in high-efficiency cogeneration (≤ 50 MW)	PLN 470.00/MWh	PLN 490.00/MWh
23.	Thermal conversion of waste products, in a dedicated biomass firing unit or hybrid units, in high-efficiency cogeneration (> 50 MW)	PLN 435.00/MWh	PLN 465.00/MWh
24.	Using biofuels to produce electricity	PLN 475.00/MWh	PLN 475.00/MWh
25.	Using onshore wind power to produce electricity (≤ 1 MW)	PLN 320.00/MWh	PLN 320.00/MWh
26.	Using onshore wind power to produce electricity (> 1 MW)	PLN 285.00/MWh	PLN 250.00/MWh
27.	Using hydropower to produce electricity (≥ 500 kW i ≤ 1 MW)	PLN 500.00/MWh	PLN 560.00/MWh
28.	Using hydropower to produce electricity (> 1 MW)	PLN 480.00/MWh	PLN 535.00/MWh
29.	Using geothermal energy to produce electricity	PLN 455.00/MWh	PLN 455.00/MWh
30.	Using solar radiation to produce electricity (≤ 1 MW)	PLN 385.00/MWh	PLN 360.00/MWh
31.	Using solar radiation to produce electricity (> 1 MW)	PLN 365.00/MWh	PLN 340.00/MWh
32.	Using offshore wind power to produce electricity	PLN 450.00/MWh	PLN 450.00/MWh
33.	Hybrid RES sources with a total installed capacity (≤ 1 MW)	PLN 415.00/MWh	PLN 415.00/MWh
34.	Hybrid RES sources with a total installed capacity (> 1 MW)	PLN 410.00/MWh	PLN 410.00/MWh

CONTACT

Agnieszka Janicka
Partner

T +48 22 627 11 77
E agnieszka.janicka
@cliffordchance.com

Paweł Puacz
Counsel

T +48 22 627 11 77
E pawel.puacz
@cliffordchance.com

Marcin Markowski
Legal Adviser

T +48 22 627 11 77
E marcin.markowski
@cliffordchance.com

Weronika Miszewska-Mietła
Advocate Trainee

T +48 22 627 11 77
E weronika.miszewska-mietla
@cliffordchance.com

This publication does not necessarily deal with every important topic or cover every aspect of the topics with which it deals. It is not designed to provide legal or other advice.

www.cliffordchance.com

Norway House, ul. Lwowska 19, 00-660
Warsaw, Poland

© Clifford Chance 2020

Clifford Chance, Janicka, Krużewski,
Namiotkiewicz i wspólnicy spółka
komandytowa

Abu Dhabi • Amsterdam • Barcelona • Beijing •
Brussels • Bucharest • Casablanca • Dubai •
Düsseldorf • Frankfurt • Hong Kong • Istanbul •
London • Luxembourg • Madrid • Milan •
Moscow • Munich • Newcastle • New York •
Paris • Perth • Prague • Rome • São Paulo •
Seoul • Shanghai • Singapore • Sydney •
Tokyo • Warsaw • Washington, D.C.

Clifford Chance has a co-operation agreement
with Abuhimed Alsheikh Alhagbani Law Firm
in Riyadh.

Clifford Chance has a best friends relationship
with Redcliffe Partners in Ukraine.