

April 2020

POLAND: ENERGY AND NATURAL RESOURCES UPDATE

Developments related to COVID-19 are occurring rapidly. Wolf Theiss will continue to distribute regular Client Alerts via email and publish up-to-date analysis on our website. A list of daily updated resources can be found here: <https://www.wolftheiss.com/covid19/>

08.04.2020, Poland – The Polish parliament is proceeding with further amendments to the anti-crisis shield legislation ("**Draft**"), which will implement additional changes for the energy and mining industry. Amendments were introduced to the Act on Renewable Energy Sources ("**RES Act**") and this year's auctions. Many deadlines resulting from the Energy, Mining and Geological Law and the Act on Biofuels were extended.

EXTENSION OF CONNECTION DATES FOR RES INSTALLATIONS

According to the amendment, the validity of connection agreements is to be extended when the deadline for the delivery of electricity falls for the first time before 30 June 2022 (the deadline is currently 30 June 2021).

RES producers will be able to request an extension from the energy company via an application. The application is to be examined within 30 days.

As indicated, this is necessary for further execution of investments which won auctions in 2018 and 2019 and which are executed outside the auction system.

RES AUCTIONS

According to the proposal, some of the articles of the RES Act will not apply to RES auctions in 2020, and new solutions have been introduced in their place.

It is proposed that the auction announcement should contain, in addition to the information indicated in the RES Act, additional information on the place and manner of submitting bids with the possibility to use an online auction platform.

Furthermore, it is indicated that the producers sign their bids under pain of nullity: with their own handwritten signature or qualified electronic signature, or trusted signature, or personal signature.

A bid will be dated and submitted to an accuracy of at least one minute and shall be assigned an individual impact number in the order in which it is received, which shall be a unique identifier for that bid.

A bid submitted in an auction will be binding on the participant in the auction and may not be modified or withdrawn.

The deadline for the President of the Energy Regulatory Office ("**President of ERO**") to announce the results of the auction or its cancellation has been extended from 5 days to 14 days from the date of its settlement or cancellation.

The bank guarantee or deposit will be returned within 60 days from the day of fulfilment by the producer of its obligation of timely sale of energy in accordance with the RES Act, taking into account the extension of the deadline; 30 days from the auction closing date with regard to a producer whose offer has not won the auction (currently it is 14 days from the auction closing date).

GEOLOGICAL CONCESSIONS

It has been indicated that geological works, including geological operation, carried out under the mining and geological law, which cannot be carried out in accordance with the timetable set out in the concession or design of geological operation due to the existence of a state of emergency or epidemic, may be carried out at a later date, without the need to amend the concession or design of geological operation, until the expiry of the concession or design of geological operation.

ENERGY CONCESSIONS

The validity of a decision to grant a concession to conduct business activity in the field of production, storage, transmission, trade in fuels or energy, which expires during state of emergency or epidemic, shall be extended until 31 December 2020 provided that the energy company submits an application for the extension of the duration of the concession, not later than 30 days before the expiry of its validity.

In cases initiated and not completed before or during an emergency or epidemic situation, the period for completing the application for the concession will be extended from 30 days to 60 days after the date of cancellation of the state of emergency or epidemic.

CRITICAL INFRASTRUCTURE

The Draft foresees the possibility of an extraordinarily coordinated entry mode onto a property where essential elements of the infrastructure for the provision of telecommunications services, electricity, water, gas and sewage disposal are located. It will be possible to provide the owner of the infrastructure or his authorized representative with access to the property, including the building, after presenting evidence of refusal of such access to the locally competent Police Commander (in Polish: *Komendant Policji*). In

such a case, police assistance will be provided in order to maintain continuity of service. In the case of property or buildings which are subject to an access ban due to activities related to combating COVID-19, the conditions of such access will be agreed with the District Sanitary Inspector.

REPORTS IN ELECTRONIC FORM

Energy and fuel companies will be able to report to the President of ERO in electronic form. This includes monthly reports on the provision of fuel storage, handling, transmission or distribution services; reports on the types and quantities of liquid fuels produced, imported and exported and their intended use; information on the types and locations of liquid fuel infrastructure used and quarterly reports on biofuels.

EXTENSION OF DEADLINES

The deadline for submission to the President of ERO of drafts, updates and reports on development plans to meet current and future demand for gaseous fuels or electricity has been extended until 31 March 2021.

The validity of the President of ERO's decisions concerning the designation of the distribution system operator and liquefaction system operator was extended until the end of this year.

The submission of quarterly reports on natural gas purchases was postponed from the first to the second quarter of this year.

The deadline for reporting on natural gas stocks was postponed to 30 June 2020.

Information on the actual volume of mandatory natural gas stocks held and their storage locations has been postponed to 1 October 2020 and reporting to 31 December 2020.

Information on gas imports, trading and storage can be submitted until 31 December 2020.

VERIFICATION OF QUALIFICATIONS

The committees appointed by the President of ERO to check the qualifications of persons involved in the operation of the network have an extended validity until 31 December 2020. The possibility of remote verification of qualifications in the scope of network operation and equipment and installations has been introduced. Certificates confirming qualifications are also valid until the end of the year.

EMPLOYEES

Companies providing critical infrastructure continuity will be able to oblige an employee to be available outside normal working hours on standby duty at the workplace or at another designated location and instruct the employee to exercise his or her right to rest at the designated location.

Does your business need support in implementing a work from home policy? We are pleased to offer our online collaboration platform WT Space to support you during the current COVID-19 pandemic.

WT Space is a fully customizable, secure collaboration platform that requires no additional hardware or software. Whether you need to collaborate on documents, manage project tasks or communicate more efficiently, WT Space can help bring your team together. Please let us know if you have questions or wish to discuss pricing. space@wolftheiss.com

About WOLF THEISS

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