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## AN INFORMATIVE ARTICLE OUTLINING THE CURRENT REGULATORY LANDSCAPE OF POLAND'S PUBLIC UTILITY SECTOR

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## 1. Introduction

The President of Energy Regulatory Office (URE) is a central body of state administration responsible for regulation in the energy sector and promoting competition. Appointed by the Prime Minister for a 5-year term, the President's tasks are closely linked to national energy policy, focusing on creating conditions for sustainable development, energy security, efficient fuel use, competition, environmental protection, and international agreements. The URE's activities have been significantly expanded due to legislative changes over the past two decades, ensuring the balance between energy companies and consumers. The Energy Regulatory Office (URE) has established international bilateral and multilateral cooperation with national energy regulators at the regional level and within the European Union in the field of energy regulation. URE is continuously enhancing access to new solutions and best practices by participating in regulatory associations such as the Council of European Energy Regulators (CEER) and the ERRA association, which brings together regulators from around the world.

## 2. Legislation

URE (Energy Regulatory Office) was established in 1997. Its responsibilities include enforcing Energy Law and secondary legislation, licensing enterprises in the gas, electricity, district heating, and liquid fuels sectors, approving tariffs, protecting consumer rights, promoting competition, monitoring the market, supporting renewable energy sources (RES) and combined heat and power (CHP) systems, and promoting energy efficiency.

URE is an independent institution supervised by the President, who in turn reports annually to the Ministry of Climate and Environment. Decisions made by the President of URE can be appealed to the District Court in Warsaw – Competition and Consumer Protection within 2 weeks from the date of receipt.

### 2.1. Internal structure

The President of URE is appointed by the Prime Minister for a 5-year term in office. The URE consists of a head office and 8 branch offices. The Office is managed by the President, Vice-President (currently vacant), and Director General. The head office of URE includes the following organizational units: Department of Electricity and Heat Markets, Department of Gaseous Fuels Markets, Department of Liquid Fuels Market, Department of Markets Development and Consumer Issues, Department of Market Monitoring, Department of Renewable Energy, Department of Energy Efficiency and Cogeneration, Department of Legal Issues and Dispute Settlement, Department of Public Communication, International Cooperation Unit, Office of the Director General, Position for the Protection of Classified Information, and Internal Auditor.

## 3. Regulatory policy – Energy

### 3.1. Unbundling

The Energy Law Act mandates that system operators for electricity and gas systems, such as distribution system operators (DSOs), must become legally and organizationally unbundled and independent. In Poland, PSE S.A. has been granted a certificate of compliance with independence criteria until December 31, 2030. In 2022, five large DSOs (DSOp) are legally obliged to separate distribution activities from non-distribution activities. At the end of 2022, 184 companies were designated as DSOs operating within vertically integrated undertakings (DSOn), not subject to unbundling.

### 3.2. Compliance Programmes

Operator independence is crucial for the performance of Distribution System Operators (DSOs) functions, and operators must develop Compliance Programmes to ensure non-discriminatory treatment of system users. The President of URE approves Compliance Programmes of five operators connected to the transmission network, and operators must submit annual reports by 31 March. In 2019, new guidelines were developed for compliance programmes, and in 2022, four DSOs pursued amended Compliance Programmes. Thematic scope of Compliance Programmes expanded to include network infrastructure management, communication, marketing activities, centralization, and procurement. Compliance Officers provided opinions on draft documents and periodically reviewed internal regulations and document templates to fulfill compliance requirements.

In 2022, the company conducted an ongoing analysis of data related to corporate governance to protect sensitive information. Compliance Officers interpreted the provisions of the Compliance Programme at the request of management or employees, providing information and explanations. Training sessions were conducted for newly hired employees within 30 days of employment, and service providers whose tasks pose a risk of violating the principle of equal treatment were also trained. In 2022, compliance officers identified one breach of the Compliance Programme provisions and nine cases of conflict of interest, leading to termination of employment relationships and measures to eliminate future violations. No complaints were filed with the URE regarding the implementation or violation of the Compliance Programmes, but a letter from trade unions regarding the project "optimization of mass customer service quality" was received.

### 3.3. Network extension and optimization

#### Monitoring investment plans of transmission system operators

Polskie Sieci Elektroenergetyczne S.A., the only electricity transmission system operator (TSO) in Poland, is responsible for investment tasks in line with the development plan

agreed with the President of URE. The plan must comply with the Energy Law Act, state energy policy assumptions, and local competence boards. The President of URE verifies compliance with the plan, ensuring long-term maximization of efficiency and avoiding excessive increases in electricity prices. In 2022, the TSO's development plan for 2021-2030 was in force, with investment expenditures agreed at PLN 14,158.3 million. In 2023-2022, the President reconciled the TSO's draft plan, assuming PLN 36,619.4 million in fixed prices. Annual performance analyses are conducted to monitor investment plans and agree future editions.

The President of URE must ensure the consistency of the TSO's investment plans with the EU-wide network development plan (TYNDP), developed by ENTSO-E. The consistency of both plans is checked at each update of documents. The 2022 investment projects include the construction of 400 kV Ostrołęka-Stanisławów line, Mikułowa-Świebodzice line, Baczyna-Krajnik line, Dunowo-Żydowo Kierzkowo-Piła Krzewina line, Krajnik-Morzyczyn line, Morzyczyn-Dunowo line, Dunowo-Słupsk line, Słupsk-Żarnowiec line, Żarnowiec-Gdańsk I/Gdańsk Przyjaźń line, Gdańsk Błonia-Gdańsk I/Gdańsk Przyjaźń line, and a HVDC cable interconnection Poland-Lithuania. However, there may be slight planning inconsistencies due to various deadlines for updating the documents and a distant date of investment start-up. The identified inconsistencies are explained with the TSO if necessary.

### **3.4. Smart grids**

In 2021, the Energy Law Act introduced systemic solutions for smart metering, requiring DSOs to install remote reading meters at energy consumption points. Modernization efforts led to a decrease in SAIDI and SAIFI indices for distribution companies, with the quality regulation implemented in 2015 contributing to this. However, the value of energy not supplied increased in 2022, with the SAIDI ratio for the five largest DSOs increasing by 132.50 minutes/customer and SAIFI by 0.70 units/customer. Variable and adverse atmospheric phenomena significantly affected these indicators, causing disruptions and extensive failures, causing significant damage to the overhead grid.

The SAIDI, SAIFI, and energy not-supplied indicators are largely due to cable line failures caused by third parties, external factors, faulty equipment, and insufficient quality of equipment provided by suppliers. The regulator did not create tools for evaluating these investments due to the implementation of pilot projects by DSOs. However, these projects were monitored annually through individual DSO reports or investment plans. The five largest electricity distributors reported a predominant share of outlays for network investments, including connection of electricity customers and producers, modernization and restoration of existing assets, and improving service quality. Modernization tasks focused on increasing grid performance parameters and enhancing functionality. Companies also invested in adapting and rebuilding networks to accommodate dispersed energy sources, DSO, and e-mobility development. Investment activities focused on implementing innovations and construction of SMART GRID networks, such as automation of the MV network and short-circuit detectors.

### **3.5. Network tariffs**

In 2022, the President of URE conducted proceedings on the approval of electricity tariffs for various entities, including transmission system operators, distribution system operators, electricity suppliers, and industrial energy companies. The Act of 7 October 2022 introduced a bill-freezing mechanism for certain consumption limits for eligible consumers, freezing energy prices and distribution fee rates up to the limits defined by the Act. The Act of 27 October 2022 introduced a guaranteed 'maximum' electricity price to be applied in 2023 for settlements by energy suppliers with eligible consumers. The President of URE continued to conduct tariff proceedings and approve tariffs for energy companies, taking into account the provisions of the law in force. However, tariffs approved by the President of URE in 2022 for suppliers in tariff group G are not directly applicable to consumers in these groups in 2023. Instead, these tariffs are the basis for calculating the level and payment of compensation due to energy companies.

The President of URE approved tariffs for electricity distribution services for the five largest DSOs, PGE Dystrybucja S.A., TAURON Dystrybucja S.A., ENEA Operator Sp. z o.o., ENERGA-OPERATOR S.A., and Stoen Operator Sp. z o.o., effective from December 31, 2023. These tariffs apply to eligible consumers, including household ones, exceeding energy consumption limits.

The President of URE approved electricity tariffs for tariff group G consumers for five default suppliers, ENEA S.A., ENERGA-OBRÓT S.A., PGE Obrót S.A., TAURON Sprzedaż Sp. z o.o., and TAURON Sprzedaż GZE Sp. z o.o., until 31 December 2023. These tariffs are used to calculate compensation payments for energy companies. Tariffs for industrial energy companies, which have no obligation to unbundle their electricity distribution and supply activities, are also approved. These tariffs apply to consumers in all tariff groups at all voltage levels, and are uniform nationwide.

### **3.6. Security and reliability regulation, Rules of network security and reliability**

The Energy Law Act mandates energy enterprises to maintain the capacity of equipment, installations, and networks to supply fuel or energy reliably and meet quality requirements. Transmission services must be provided to all entities on equal terms, without compromising the reliability of electricity supply or quality. The Electricity System Ordinance supplementary provisions regulate energy supply standards, reflected in the transmission or distribution network codes of individual network operators. The reliability of network operation is a derivative of power security, determined by capacity reserve and system operators' competences and rights. System operators are responsible for power security on the electricity markets, with TSOs on the system market and DSOs on local markets. Electricity network codes specify conditions for network use, operation, exploitation, and development planning, focusing on security, maintenance, and quality parameters.

### **3.7. Congestion management**

Congestion management is a crucial aspect of cross-border infrastructure access, governed by Regulations 2019/943, 2015/1222, and 2016/1719. In 2022, transmission

capacities were calculated and allocated separately for various interconnections, including the synchronous profile, DC interconnection with Sweden, Lithuania, and Ukraine. The Flow Based Allocation (FBA) method replaced the NTC method for daily horizons, and for connections with Sweden and Lithuania, export and import capacities were calculated for daily auctions and intraday procedures. The Interim Model for day-ahead market coupling in Central Europe was launched in June 2021, connecting Poland and the 4MMCs to Europe's largest MRC market. The Core Flow Based Market Coupling project was implemented in June 2022, involving capacity calculation and allocation on synchronous interconnections based on flow-based approaches. The allocation of capacity in the intraday market on Poland-Germany and Poland-Czech Republic synchronous interconnections is performed in continuous trading mode within the European intraday market.

The Balancing Conditions (BC) govern the operation of the electricity system balancing market, which involved 138 entities at the end of 2022. The balancing market processes involved 26 generators, 10 final customers, 11 network customers, 82 trading enterprises, 3 energy exchanges, 5 DSOs, and PSE S.A. as TSO. The figure shows the volume of unscheduled balancing energy (UBE) withdrawn from the balancing market and the settlement prices of imbalance in individual months of 2022.<sup>1</sup>

In 2022, the costs of balancing customers' demand (BC) and removing limitations (LC) and costs arising from ESC reallocation varied significantly. The role of DSOs in system balancing involves managing metering data and co-managing the Balancing Market. DSOs are obliged to undertake measures ordered by the TSO, as described in the transmission network code (TNC) and balancing conditions (BC). In 2022, system balancing was affected by amendments to the TNC, BC, and DNC. Important amendments to the TNC include requirements for active power estimation, modifications to the implementation of the FBA method for Single Day-Ahead Coupling, and the possibility of extending the area of the Balancing Market to include the Delivery Point at the Balancing Market Energy (MB). Important amendments to the DNCs include adaptation to amendments to various acts, such as the Act of 11 January 2018 on Electromobility and Alternative Fuels, Act of 31 July 2019 amending Certain Acts to Reduce Regulatory Burdens, Capacity Market Act, Electricity System Regulation, and Balancing Conditions.

DSOs, except PGE Dystrybucja S.A., updated consumption profiles for electricity delivery points with 40 kW or less capacity. PSE S.A. is operationally active in the European platform for imbalance netting under the IGCC project since 2020, reducing activation of balancing energy by individual TSOs. PSE also participates in three European balancing energy exchange platforms.

### **3.8. Monitoring the balance of supply and demand**

#### **Monitoring investment plans of energy companies in new generation capacity**

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<sup>1</sup> <https://www.ure.gov.pl/pl/urząd/informacje-ogolne/komunikaty-prezesa-ure/10934,Informacja-nr-112023.html>

In 2022, the President of URE examined investment plans for electricity generators from 2022-2036, focusing on 15-year forecasts. The survey involved 69 energy companies and 11 groups, who plan to commission over 22 GW of new generation capacity by 2036. The largest investments are in natural gas, offshore wind farms, and PV. However, the availability of new capacity will depend on weather conditions and be lower than conventional coal-based units. Generators plan to decommission around 20 GW of coal and lignite generating units, citing economic efficiency and technological wear and tear. The share of coal-fired generation units will decrease between 2022 and 2036, while gas-fired units will increase. Corrective availability coefficients (CAC) will be applied to assess the actual balance of generating capacity. If these coefficients are applied, approximately 12.6 GW of the planned additional 22 GW of capacity becomes available.

In 2022, Poland's capacity market remained unchanged, with both European and national legal provisions unchanged. The number of potential foreign capacity providers increased significantly, with foreign providers located in the synchronous profile zone, Lithuania, and Sweden participating in the market<sup>2</sup>. The President of URE announced the final results of the main auction for 2026<sup>3</sup>, additional auctions for 2023<sup>4</sup>, and submitted a request to the Minister of Climate and Environment regarding capacity demand volume. The President also provided answers to questions about obligations to submit to general certification, certification for auction, capacity fee rates, selected hours of the day, and capacity fee collection. PSE S.A. was informed about the course of general certification in 2022, certification for the auction for 2027, additional auctions for 2023, and main auction parameters. Amendments to the Capacity Market Rules were approved by the President of URE on 29 December 2022.<sup>5</sup>

### 3.9. General certification in 2022

The general certification process requires owners of physical generation units to apply for registration with the operator, ensuring their participation in main or supplementary auctions and setting up capacity market units. Participation is voluntary, except for units with a gross capacity of at least 2 MW. In 2022, 1,412 applications were submitted and 1,379 units were registered, increasing the net generating capacity by 3.7%.

The capacity market processes for 2022 were successful, with the 2027 main auction ending in the first round, resulting in a record-breaking clearing price of 1.49%.<sup>6</sup> This is due to Poland's

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<sup>2</sup> The condition for participation is the conclusion of agreements between the Polish transmission system operator and the operators from the aforementioned zones. In the case of a synchronous profile, these must be operators of all transmission systems directly connected to the NES. Due to the fact that, until the end of 2021, the aforementioned condition was not fulfilled, only providers connected to systems with direct current interconnections with the NES, namely from Sweden and Lithuania, could participate in the auctions on the Polish capacity market. In order to accelerate negotiations, the President of URE, together with the German regulator BNetzA, joined the process of arrangements between operators, which led to the conclusion of an agreement on 12 August 2022, which enabled capacity providers located in the synchronous profile zone to participate in the preliminary auction and, consequently, in the main auction for the year of supply 2027.

<sup>3</sup> Information of the President of URE no. 2/2022.

<sup>4</sup> Information of the President of URE no. 19/2022.

<sup>5</sup> <https://bip.ure.gov.pl/bip/rynek-mocy/3674,Regulamin-rynku-mocy.html>

<sup>6</sup> Pursuant to Article 29 para. 4 of the Capacity Market Act, additional auctions are carried out in the year preceding the year in which the delivery periods of each of these auctions fall, with additional auctions for all delivery periods taking place at the same time.

electricity generation structure, which is dominated by sources that don't meet emission limits. The uncertain economic situation in Europe, including gas price fluctuations from the Ukraine war, also affected capacity supply. However, contracts for renewable energy sources and energy storage have been concluded, with a share of 1,500 MW remaining unchanged compared to 2026.

### **3.10. Cross-border issues**

In 2022, the EU and third-country operators determined technical possibilities for interconnection exchange for the Zamość - Dobrotwór (Ukraine) line, Sweden and Lithuania, and the radial operating 220 kV Zamość - Dobrotwór line. The NTC method was used for each case, with the FBA method replacing the NTC method for daily horizons. Transmission capacity on the Poland-Ukraine interconnection was available through explicit auctions on a monthly time horizon.

In 2022, the Commercial Balance on Polish borders saw a 26% increase in exports of electricity, totaling 11,763.9 GWh, compared to the previous year. Imports decreased slightly, with a total of 9,911.3 GWh. This increase was primarily due to higher electricity prices in western countries and rising gas prices in European markets. Unplanned electricity flows at synchronous borders reduced transmission capacity.<sup>7</sup>

The electricity system with Germany, the Czech Republic, and Slovakia has a technical profile with interconnectors sharing a common constraint for commercial transactions. NTC shares were calculated until 8 June 2022, before FBA capacity calculation.

The Poland-Lithuania interconnector and the Sweden-Lithuania- and Lithuania-Sweden-transits have reached maximum volumes of 592 MW and 492 MW respectively, largely due to the availability of the Lithuania-Sweden interconnector. However, these figures do not include the allocated capacity for Sweden-Lithuania- and Lithuania-Sweden-transits due to the launch of Single Day-ahead Coupling auctions.

In 2022, transmission services in cross-border exchanges remained unaffected due to capacity or grid failures. Synchronous and Sweden-Lithuanian interconnections had no capacity limitations. The Poland-Ukraine interconnection experienced no emergency shutdowns, resulting in planned supply reductions.

### **3.11. Implementation of guidelines and network codes**

In 2022, the ACER Framework Guideline on demand side response was finalized, following work on amending Regulation 2015/1222<sup>8</sup> and reviewing provisions introduced by Regulation 2019/943. The decision on the determination of Capacity Calculation Regions

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<sup>7</sup> Source: URE on the basis of data provided by PSE S.A.

<sup>8</sup>[https://acer.europa.eu/sites/default/files/documents/Official\\_documents/Acts\\_of\\_the\\_Agency/Framework\\_Guidelines/-Framework%20Guidelines/FG\\_DemandResponse.pdf](https://acer.europa.eu/sites/default/files/documents/Official_documents/Acts_of_the_Agency/Framework_Guidelines/-Framework%20Guidelines/FG_DemandResponse.pdf)



(CCRs)<sup>9</sup> required cooperation between TSOs and national regulators. The Polish bidding zone borders are assigned to three independent CCRs, and Regulation 2017/2195 identifies the relevant geographical area and synchronous area. Regulation 2017/1485 distinguishes a load-frequency control block (LFC block) as a part of a synchronous area.

### 3.12. Implementation of connection codes at national level

In February 2022, the President of URE received applications from the owner of two type D power generating modules<sup>10</sup> for an extension of the validity of the interim operational notification (ION) issued by the TSO. The ION allows the owner to operate the module and generate power using the grid connection for a limited period, subject to a data and study review process. The maximum period for maintaining ION status is 24 months. The President of URE decided to extend this period, and information on derogations was included in the Register of derogations from the connection requirements of the Network Codes. In Q4 2022, the President of URE received a request for a derogation from certain requirements of Regulation 2016/631<sup>11</sup>. In September 2022, the President of URE received a request from the DSO for a decision to conclude a new connection agreement. In October 2022, the DSO submitted a request for adjudication to determine if a power generating module meets the requirements for recognition as existing or new within Regulation 2016/631.

### 3.13. Electromobility

In 2022, the President of URE initiated two administrative proceedings to amend the decision of the President and designate an energy company as the operator of public charging stations and charging services provider in the municipality. The first proceeding was completed by replacing some public charging stations with reserve stations, while the second proceeding was discontinued due to the entry into force of Article 25 of the amendment to the Electromobility Act<sup>12</sup>. The DSO confirmed the lack of public charging stations meeting the requirements of Article 25 of the amendment to the Electromobility Act, which constituted no basis for the President of URE to designate a company to perform the function of an operator of a public charging station and a charging service provider. The President of URE approved the General Conditions of Tender for Sale of Publicly Available Charging Stations to four operators, but these proceedings were not completed in 2022<sup>13</sup>.

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<sup>9</sup> The capacity calculation regions were established by ACER Decision No. 06/2016 of 17 November 2016. (published on ACER's website: [http://www.acer.europa.eu/Official\\_documents/Acts\\_of\\_the\\_Agency/Individual%20decisions/ACER%20-Division%2006-2016%20on%20CCR.pdf](http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Individual%20decisions/ACER%20-Division%2006-2016%20on%20CCR.pdf)), as amended.

<sup>10</sup> D-type includes generating modules with a maximum power rating of 75 MW and above, as well as all generating modules, regardless of their maximum power, if the voltage at their point of connection is at least 110 kV.

<sup>11</sup> <https://bip.ure.gov.pl/bip/rejstry-i-bazy/rejstr-odstepstw-od-wymogow-p/4301,Rejstr-odstepstw-od-wymogow-przylaczeniowych-kodeksow-sieciowych.html>

<sup>12</sup> Act of 2 December 2021 amending the Act on Electromobility and Alternative Fuels and Certain Other Acts (Journal of Laws of 2021, item 2269), hereinafter: the "amendment to the Act on Electromobility".

<sup>13</sup> <https://www.ure.gov.pl/pl/urzad/informacje-ogolne/aktualnosci/10562,Elektromobilnosc-Prezes-URE-zatwierdzil-Ogolne-warunki-przeprowadzenia-przetargu.html>

### **3.14. Competition and market operation**

#### **3.14.1. Wholesale market**

In 2022, gross domestic electricity production increased by 0.9% to 173,157 GWh, while consumption decreased by 0.53%. The GDP in 2022 was higher by 4 percentage points than the increase in domestic electricity consumption<sup>14</sup>. Imports accounted for 8.0% of total inflows and exports 8.9%, while renewable energy sources increased by 3% to 5%. The installed capacity of the national electricity system increased by 12.7% and 9.6%, respectively, compared to 2021<sup>15</sup>. The average annual capacity demand decreased by 1.20% and 1.16%, while the ratio of available capacity to generating capacity decreased by 5.8 percentage points.

#### **3.14.2. Entity structure of the energy wholesale market**

In 2022, the PGE Polska Grupa Energetyczna S.A. group held the largest market share in the electricity generation subsector, maintaining its leading position on the sales to final customers market. The Orlen Group's importance in terms of energy fed into the National Electricity System (NES) increased. The market share ratio of the three largest market players declined slightly to 66.1%, with a 6.2 percentage point decrease for the three largest generators in installed capacity. However, PKN Orlen S.A. significantly strengthened its position on the market, acquiring generators from the PGNiG S.A. group. The concentration ratio for installed capacity and electricity fed into the grid remained low, reflecting the dynamics of electricity production from fossil fuels and renewable sources. The decreases in concentration indices were mainly driven by the increase in small, dispersed renewable energy sources and organizational changes in the generation sector.

#### **3.14.3. Sale of electricity in respective market segments**

The market structure and mechanisms in the European electricity market are similar to those in other competitive markets, providing non-discriminatory access to various electricity purchase and sales forms.

### **3.15. Purchase of electricity in respective market segments**

In 2022, the President of URE published three price indices: the annual and quarterly average price of electricity sales on the competitive market, and the quarterly average price of electricity sold on terms other than those provided for in Article 49a para. 1 of the Energy Law Act. The average annual price of electricity sales on the competitive market was 523.71 PLN/MWh, which is 36.3% higher than the weighted average price of the annual contract with baseload delivery of electricity in 2022 (BASE\_Y-22) quoted on the TGE S.A.<sup>16</sup> Commodity Forward Instruments Market (CFIM)/Electricity Forwards Market (EFM OTF) and 52.8% lower than the weighted average price of the annual contract with baseload delivery in 2023

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<sup>14</sup> <https://stat.gov.pl/obszary-tematyczne/rachunki-narodowe/roczne-rachunki-narodowe/produkt-krajowy-brutto-w-2022-roku-szacunek-wstepny,2,12.html>

<sup>15</sup> As at 31 December 2021 and 31 December 2022, data of PSE S.A.

<sup>16</sup> In the case of vertically consolidated groups referred to in Article 3 para. 1 item 44 of the Act of 29 September 1994 on accounting (Journal of Laws of 2021, item 217, as amended), sales of electricity in bilateral contracts to trading companies within the same group are not included.

(BASE\_Y-23) listed on TGE S.A on the EFM OTF. The price is determined based on data from the public fuel and energy statistics system and data obtained from TGE S.A., EPEX SPOT SE (EPEX/EEX), and NORD POOL. The algorithm for determining the average annual electricity sales price on the competitive market is presented in the Information of the President of URE on the amount of the aforementioned price<sup>17</sup>.

### **3.16. Retail market**

In 2022, the retail market had 17.3 million customers, with 90.7% purchasing energy for household consumption. The remaining customers were consumers in tariff groups A, B, and C. Consumers have the right to uninterrupted and reliable electricity from their chosen energy supplier. The retail electricity market includes five large DSOs (DSOp) and 182 DSOs (DSOn), with DSOs operating within vertically integrated enterprises. The supply side consists of energy suppliers offering the commodity to final customers. Suppliers are not obliged to submit electricity tariffs to the President of URE for approval, while tariffs for households are approved at the request of the default supplier and those who choose not to switch their supplier.

#### **3.16.1. Monitoring the level of prices, the level of transparency, the level and effectiveness of market opening and competition**

In 2022, surges in energy prices on wholesale markets affected the retail market, but the Polish retail energy market was spared from large-scale bankruptcies due to the national energy law and President of URE's long-term policy of applying high requirements to assess the financial viability of conducting business in electricity trading. The solutions of supply of last resort were launched efficiently, ensuring continuity of energy supply to consumers. The average energy price for the fourth quarter of 2022 increased by 69.6%, and distribution fees increased by an average of 14.8%. Consumers in tariff group C experienced the most significant price increase, with households experiencing the most significant increase. The cost of electricity supply increased by 47.32% on average, with distribution fees also increasing above average. The regulator published a summary of offers for households, but no new tool has been launched.

In 2022, the volume of electricity supplied to final customers increased by 54.89% under market conditions, with consumers exercising the right to switch a supplier increasing by 1.21 percentage points. The number of consumers exercising the right to switch increased by 3.62% compared to 2021. As of December 31, 2021, almost 60% of households bought energy under approved tariffs, while 40% bought energy with market offers. In Poland, dynamic price options were not widely offered, but legislative and organizational work is being prepared for their implementation.

In 2022, the President of URE received consumer requests for intervention on contract terms, billing, and invoicing. Consumers reported issues with contract termination, sanction fees, and contract assignment, as well as irregularities in the contracting process. Issues with settlement

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<sup>17</sup> Information on annual and quarterly prices together with announcements can be found on the URE's website at: <https://www.ure.gov.pl/pl/energia-elektryczna/ceny-wskazniki/7852,Srednia-cena-sprzedazy-energii-elektrycznej-na-rynku-konkurencyjnym-roczna-i-kwa.html>

rules and price setting were also reported. However, there was a decrease in consumer notifications regarding unfair market practices related to electricity supplier switching. The President of URE forwarded complaints to the President of the Office of Competition and Consumer Protection (UOKiK). Due to increased wholesale energy prices, default suppliers avoided fulfilling their obligation to sell electricity to household consumers at the approved tariff. Regulations regarding suppliers' tasks in vertically integrated enterprises were clarified, and regulations were supplemented to indicate entities required to continue operations in case of discontinuation of sales. The President of URE conducted a cyclical examination of last resort supply operations, using the results to develop a new model.

In 2022, the number of smart metering systems in Poland increased to 21% in all consumer groups. The government aims to implement these solutions for 80% of consumers by 2028. However, 200,865 electricity consumers, including 139,237 household consumers, were suspended due to payment delays. The most common reason for these suspensions was payment arrears. Energy companies must inform consumers about alternatives before stopping supply, and the process took an average of 18 days. Prepayment meters are also being installed to help customers with delayed bill payments. In 2022, 179,935 households and 1,921 customers in tariff group C used prepayment meters. The government's strategic document on Poland's energy policy and the Energy Law Act provide further support for the development of smart metering systems.

In Poland, the vulnerable consumer protection system is linked to the social welfare system, providing municipalities with energy allowances for vulnerable customers. In 2022, only 18,100 eligible consumers received these allowances, compared to 71,900 in 2021. This low usage was due to the Shield Allowance Act of 17 December 2021, which stopped processing applications for energy allowances. The shield allowance replaced the energy allowance, protecting low- and middle-income households from rising costs. In 2022, four million households received the shield allowance, totaling approximately PLN 2.5 billion. Suppliers also extend protection for vulnerable consumers against overdue and current debts.

### **3.17. Consumer protection and dispute settlement**

The President of the Energy Law Act (URE) can resolve disputes related to refusal to conclude grid connection contracts, including increasing connection capacity, sale contracts, transmission or distribution services, natural gas transport services, storage services, liquefaction of natural gas, and comprehensive contracts. The Coordinator for Negotiations also operates with the President, conducting out-of-court resolution of disputes between consumers, renewable energy prosumers, and energy undertakings. The Coordinator's tasks include resolving disputes related to connection to the electricity or gas grid, provision of services, sales, and comprehensive contracts. In Poland, there are Municipal and District Consumer Ombudsmen who provide free consumer advice and legal advice on consumer interests.

The President of URE has been actively addressing consumer irregularities in the contracting process, collaborating with the President of UOKiK and raising consumer awareness through the Energy and Gas Fuel Customers' Information Point. The main role of this point is to provide information on consumer rights and obligations in relation to energy companies. In 2022, the

President also conducted information activities for household consumers, publishing information on major problems leading to disputes between energy companies and household consumers of gas fuels and electricity. The Energy Law Act distinguishes between fuel and energy consumers, separating household consumers from fuel and energy consumers. The President has provided consumers at risk of having their electricity supply suspended with information about their rights under the Energy Law Act, and has also conducted ad hoc interventions with energy companies to establish facts, settle cases amicably, enforce compliance, or bring parties closer together.

The Energy Law Act mandates that electricity or gas fuel suppliers must inform customers about their energy consumption in the previous year, the average consumption for their tariff group, and energy efficiency measures. When issuing an invoice, companies must provide information on the volume of electricity consumption, metering and settlement system readings, method of determining consumption, and allowable duration of interruptions in electricity supply. This ensures transparency and accountability in the energy industry.

In 2022, consumers reported a wide range of complaints against energy companies, with the President of URE addressing issues related to connection to the grid, metering, quality of supply, unfair market practices, and contracting. The statutory prohibition of the conclusion of contracts for the sale of energy and gas with household consumers outside business premises led to a decrease in complaints in this area. Complaints also included irregularities related to the contracting process, such as customer service agents failing to provide full information on costs and additional services. Complaints also included issues with resumption of supply after interruption, suspension of supplies due to non- or late payment, invoice/bills issued and debt recovery, price/tariff, compensation, supplier switching, customer service, and microgeneration/prosumption. The President's actions aimed to clarify the issues covered by the complaints and ensure a smoother energy market.

### **3.18. Obstacles and constraints to developing the consumption of self-generated electricity and citizen energy communities**

Prosumer<sup>18</sup> energy, the self-consumption of electricity from renewable sources, has seen a significant increase in installed electrical capacity from 0.35 GW to over 9.3 GW between 2018 and 2022<sup>19</sup>. In 2022, a new system called net-billing was introduced, billing surplus energy fed into the grid according to the average market price of energy from the previous calendar month and using dynamic tariffs. This system increased the role of self-consumption of generated electricity. However, difficulties in micro-installation capacity integration in the national electricity system have led to the need to amend prosumer energy regulations. The main challenge is the creation of an energy cooperative, which involves determining the initial composition and generating capacity, developing rules for energy trading, establishing a development plan, negotiating contracts, and managing the cooperative. The RES Act also

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<sup>18</sup> Prosumer – a consumer producing electricity exclusively from renewable energy sources for his/her own use in a micro-installation (a RES installation with a total installed capacity of no more than 50 kW), provided that, in the case of a final customer who is not a household consumer of electricity, this does not constitute the object of his/her main economic activity.

<sup>19</sup> As at the date of this Report Q2, 2024, the number of prosumers is estimated to be over 1.9 million.

includes a definition of an energy cluster, involving entities with different legal and organizational statuses in the production and balancing of demand, distribution, or trade in energy from renewable energy sources or other sources or fuels.

The development of dispersed energy, including prosumer energy, is significantly changing the distribution sector. Distribution system operators (DSOs) are now positioned as market facilitators, with their efficiency determining the market's functioning. This includes initiatives like citizen energy communities and aggregators offering services to reduce electricity consumption. Distribution companies should support the development of all forms of communities, societies, and clusters, as only a well-managed citizen energy industry can support the national electricity system. However, there are four main barriers to the development of dispersed energy: economic and financial, legislative-regulatory, socio-cultural, and technical-technological. Economic and financial barriers include the monopolistic position of power grid owners and lack of regulations requiring DSOs to cooperate in energy communities. Legislative-regulatory barriers include not fully implemented legal regulations, complicated investment processes, and lack of regulations motivating the energy transition. Socio-cultural barriers include lack of widespread knowledge and education on energy management and modern technical solutions. Technical-technological barriers include unsatisfactory technical conditions of energy infrastructure, insufficient monitoring, and network controllability.