

Legal framework in Poland & Bird & Bird

Renewable Energy Market in Poland

Division of the market at the end of September 2010 the market (based on the data published by the Polish Energy Regulatory Office, ERO)

Type of energy production (power plants)	No. of installations	Power[MW]
Biogas	136	79.478
Biomass	16	259.490
Solar	2	0.012
Wind	378	1095.587
Hydropower	737	948.363
Cogeneration (Combined Heat and Power)	41	0.000*
Altogether	1,310	2382.930

* not possible to establish for this type of energy source

Renewable Energy Market in Poland

Sector rapidly developing due to implementation of new regulations:

- green certificates
- obligation for the so-called "appointed energy seller" to purchase all renewable energy produced by entities connected to the seller's network
- state aid

Energy in Poland

The biggest players on the Polish energy market:

- **PGE** Polska Grupa Energetyczna S.A. (energy production: 41%; energy distribution: 29%)
- **Tauron** Polska Energia S.A. (energy production: 17%; energy distribution: 26%)
- **ENEA** S.A. (energy production: 8%; energy distribution: 15%)
- **Energa** S.A. (energy production: 2%; energy distribution: 15%)
on 29.09.2010 PGE and Energa signed an SPA: PGE buys 84,19% shares in Energa – still no clearance from the Polish competition authority received

Targets

- **15%** - Polish target for the share of energy from renewable sources in gross final consumption of energy in 2020
- Redemption of green certificates for each energy company was set as follows:
 - **10,4%**: 2010 – 2012
 - 10,9 %: 2013
 - 11,4 %: 2014
 - 11,9 %: 2015
 - 12,4 %: 2016
 - **12,9%**: 2017

Incentives (1)

- different types of certificates (for renewables – green certificates)
- obligation for energy producers and sellers to buy certificates OR to pay a **substitute fee** computed in a way set in relevant legal acts
- the certificates are also traded on the Polish Power Exchange
- the priority right in access to distribution services for "green energy"
- until the end of 2010 the connection fee for renewable energy producers is set for half of the connection costs

Incentives (2)

- a so called “appointed seller” is obliged to buy all energy produced by renewable energy producers connected to grids active on its territory
- the price is computed as provided for in relevant legal acts:
 - an average of the energy price for the previous calendar year
- small renewable energy producers (max. 5 MW) do not pay for issuance of the certificates, license fee
- no excise tax on renewable energy (the excise tax for “regular” energy is around EUR5/ 1 MW)

Recent changes in the Energy law with regard to renewable energy:

- each energy producer that wants to get connected to a nominal voltage higher than 1kV has to make **an advance payment** on the future connection fee
- the advance payment = PLN 30 (around EUR 8) for each KW of the planned connection power
- the advanced payment cannot be higher than PLN 3.000.000 (around EUR 750.000)
- the costs of preparing an opinion on impact of the wind farm connection on the National Power System are to be borne by the operator
- Possibility to add up different certificates

Construction of a wind farm in Poland (1)

Obtaining a building permit:

- wind study
- local zoning plan
- environmental permits (together with e.g. research on influence on the avifauna, Nature 2000)
- real estate issues:
 - ownership
 - lease agreements
 - transmission easements

Construction of a wind farm in Poland (2)

Interconnection conditions and interconnection agreement – to receive these the investor has to obtain among others:

- a building permit
- permit on use of the real estate
- sometimes: separation of the real property from agricultural land (extra costs)
- permit from civil and military aviation authorities
- conditions of public road use (if any)
- local historical monuments authority
- opinion on impact of the wind farm connection on the National Power System

Construction of a wind farm in Poland (3)

- Application for the interconnection conditions and interconnection agreement to the distribution system operator operating in the area where the wind farm will be constructed
- the interconnection conditions (or refusal to determine them) should be granted within maximum of 150 days of the day the advanced payment has been received
- once the interconnections conditions have been set by the energy distributor – they are valid for 2 years and within that time frame the distributor cannot refuse entering into the interconnection agreement with the energy producer

Construction of a wind farm in Poland (4)

Obligation to enter into the interconnection agreement:

An energy undertaking transmitting or distributing energy is, by law, obliged to conclude an interconnection agreement with each entity (natural or legal person) seeking connection to the network, except when:

- the energy undertaking has no technical or economic conditions for connecting the entity to the network
- the entity seeking connection to the network does not fulfil the connection terms

In case the energy undertaking refuses to enter into the connection agreement, it has to notify about this fact the President of ERO:

- appeal proceedings possible

Construction of a wind farm in Poland (5)

- electricity generation as a licensed activity
- license is granted by the President of ERO for a fixed term not shorter than 10 years and not longer than 50 years unless the applicant applies for a license for a shorter term
- the investor has to meet requirements specified in the Energy Law Act, in particular: financial, technical and organizational resources needed to perform the licensed activity
- the business obtaining the license is obliged to pay an annual fee
- possibility to receive a promise of a license

Construction of a wind farm in Poland (5)

PPA

- obligation of an “appointed seller” to purchase electricity generated from renewable energy sources connected to networks located within the area of a “supplier of last resort” if any such energy generator requests so;
- often the producers enter into PPAs with other companies than the appointed sellers

Why to invest in Poland?

According to a recent market research (year 2010) Poland is at:

- the world's 16th country with regard to attractiveness of investment in the renewable energy sources
- the world's 10th place with regard to attractiveness of investment in the wind energy

Thank you & Bird & Bird

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