

Legal Alert

Amendment of the Energy Law: New areas of business for energy companies

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On 17 October 2013 the President of Poland signed into law an act amending the Mining and Geological Law of 9 June 2011 and certain other laws. The changes are necessary to implement the Carbon Capture & Storage Directive (2009/31/EC) into Polish law. The new regulations entered into force on 24 November 2013, are the next stage in implementation of the EU Energy and Climate Package in Poland. They also involve changes in the Energy Law, including introduction of the institution of a transport network operator, regulations on transmission of CO₂, and expanded authority of the President of the Energy Regulatory Office.

The amendment of the Energy Law is necessary to adjust this act to changes in the Business Freedom Act of 2 July 2004 introducing new types of concession activities involving exploration of underground CO₂ storage complexes as well as underground storage of CO₂.

The key changes involving expansion of the subject matter covered by the Energy Law include:

- Introduction of the institution of a transport network operator, which will handle transmission of CO₂ and also be responsible for traffic in the CO₂ transport network, the current and long-term safe functioning of the network, operation, maintenance, repairs and necessary expansions of the network
- Addition of a new Chapter 2b, "Transmission of carbon dioxide," where the new Art. 11m(1) provides that transmission of CO₂ may be conducted after connection to a CO₂ transport network pursuant to an agreement on performance of CO₂ transmission services
- Specification of the minimum requirements for agreements on performance of CO₂ transmission services, including provisions concerning the quantity of CO₂ transmitted during contract periods, the location where the CO₂ stream will enter the transport

network and be drawn from the network, the fee schedule and conditions for amending the rates, as well as the technical parameters and properties of the CO₂ to be transmitted

- Expansion of the authority of the President of the Energy Regulatory Office, who will be competent for such new matters as designation of transport network operators for specific periods and connection of interested parties to the operator's network.

A transport network operator will be required to assure implementation and financing of construction and expansion of the CO₂ transport network, including cross-border connections. One of the tasks will also be to assure the safe functioning of the network, transmission capabilities and access to the network infrastructure.

Businesses interested in joining a CO₂ transport network, as in the case of connections to the power grid, will have to apply for determination of the conditions for connection, upon payment of an appropriately calculated fee.

Concession activity involving transport and storage of CO₂ will open up new areas of business for entities from the energy sector, such as exploration of underground storage complexes for CO₂, underground storage of CO₂ and transport of CO₂. Those interested in conducting such activity will need to complete a number of administrative legal procedures, including obtaining a concession, which will be governed under the Business Freedom Act.



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