

Legal Alert

The next set of changes in energy law

January 2014

Further provisions of the “Little Energy Trio” under the Act of 26 July 2013 Amending the Energy Law and Certain Other Acts (Journal of Laws Dz.U. 2013 item 984) came into force on 1 January 2014, this time involving accounting and financial reporting. In addition, from the New Year the mandatory level of trading of gas via the energy exchange increased, energy subsidies for low-income households and new distribution grid codes went into effect, and the market awaits changes resulting from use of comprehensive general distribution agreements.

Accounting and financial reporting

These changes involve financial reports containing the profit and loss account for operations involving delivery of gaseous fuels or electricity which are subject to audit after 1 January 2014. Energy companies are required to maintain accounting records in a manner enabling separate calculation of costs and revenue and profit and loss for activity involving:

- supply of gaseous fuels or electricity, including fixed costs, variable costs and revenues, separately for production, transmission, distribution and trading in gaseous fuels or electricity, storage of gaseous fuels, liquefaction of natural gas or regasification of liquefied natural gas, and also with respect to customer groups specified in the tariffs
- other operations unconnected with the foregoing activity.

The new regulations impose a broader range of obligations on energy companies. A key change is introduction of the obligation to audit financial reports covering the balance sheet and profit and loss account for activity connected with supply of gaseous fuels or electricity. The audit should be conducted on the basis of Art. 7 of the Accounting

Act of 29 September 1994 and should reflect aspects assuring equal treatment of customers and elimination of cross-subsidies between activities connected with supply of gaseous fuels or electricity.

Energy companies are also required to prepare and maintain financial reports containing the balance sheet and profit and loss account for reporting periods separately for specific types of business operations. Meanwhile, with respect to enterprises not required to take the foregoing actions on the basis of specific regulations, a requirement has been introduced that they make such reports available for public review at their offices.

The mandatory level of trading of gas via the energy exchange, introduced by the Little Energy Trio, rose as of 1 January 2014 from 30% to 40%.

Energy subsidies paid through the local social welfare centre for low-income electricity customers

This year the state is earmarking a total of about PLN 115 million for energy subsidies. Through the end of April 2014, the poorest users will receive:

- PLN 11.36 per month for persons living alone
- PLN 15.77 for a household of two to four people
- PLN 18.93 for a household of five or more.

Readiness to conclude comprehensive general distribution agreements (GUDk)

The GUDk is intended to enable all sellers of electricity to conclude contracts for sale of electricity and assure performance of distribution services, known as comprehensive agreements, with household electricity customers.

It was announced in April 2013 that work on the GUDk form had been completed by the Polish Association of Power Transmission and Distribution (PTPiREE) and the Association of Energy Trading (TOE). The agreement is designed to enable issuance of a single invoice to household customers following a change in the seller of electricity.

All distribution system operators are required to implement the GUDk from 1 January 2014.

New distribution grid codes

The President of the Energy Regulatory Office recently approved the distribution grid codes for RWE Stoen Operator Sp. z o.o., Enea Operator Sp. z o.o., Energa Operator S.A. and Tauron Dystrybucja S.A. These documents provide a set of specific rules and conditions for users of the operator's grid. Distribution grid codes specify the rights and obligations of entities connected to the grid—producers and buyers of electricity—and the distribution system operator, as well as trading companies and sellers. The codes also establish the procedures to be followed if a seller fails to commence sale of electricity or stops making sales, or if the seller provides comprehensive service.

Upcoming changes:

- **Operators of gas transmission, electricity transmission, gas distribution and electricity distribution systems are required to submit their proposed development plan and revisions to the plan to the President of the Energy Regulatory Office for approval by 31 March 2014.**

Among other changes, the Little Energy Trio amended the wording of Art. 16 of the Energy Law, which specifies the procedure and criteria for preparation, submission and approval of development plans for satisfying current and future demand for gaseous fuels or electricity. The amended Energy Law Art. 16(14) requires operators to submit their proposed development plans and revisions to the President of the Energy Regulatory Office for approval by 31 March.

- **Transmission system, distribution system and storage system operators have until 11 March 2014 to meet the criteria for independence set forth in the amended Art. 9d of the Energy Law.**

The Act of 26 July 2013 Amending the Energy Law and Certain Other Acts introduced changes in the rules for functioning of operators of transmission systems, distribution systems and storage systems and other entities providing services of liquefaction of natural gas, regasification of liquefied natural gas, or transmission, distribution or storage of gaseous fuels. The act provides a 6-month grace period for fulfilment of the new requirements. The act also expands the statutory exemption from the unbundling requirement. Violations of unbundling requirements are subject to fines under Art. 56(1) (20) and (21) of the Energy Law.



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