



Photovoltaics in Poland

Legal and administrative issues

Warsaw, 31 March 2021

AGENDA

1. Support system mechanisms
2. Power purchase agreements
3. Sale of projects
4. Investment process
5. Draft amendment to the RES Act and other Acts



SUPPORT SYSTEM MECHANISMS

AUCTION SYSTEM

FROM MID-2016

- > **Auctions (according to the Law) are carried out at least once a year** by the Energy Authority
- > In fact: **a tender procedure with limited amount and limited value of energy** (the exact numbers are specified annually in an ordinance of the Council of Ministers)
- > **Bidders indicate a price per 1 MWh and the amount of energy** they wish to sell
- > **Auction baskets** are based on a technology where bidders compete with one another:
 - RES installations generating electricity using only non-agricultural biogas, and RES installations generating electricity using biomass, bioliquid fuels (including dedicated biomass combustion installations, hybrid systems and dedicated multi-fuel combustion installations),
 - installations using only hydropower, only bioliquid fuels, only geothermal energy, only offshore wind energy for electricity generation,
 - installations generating electricity using only agricultural biogas,
 - **installations generating electricity using: only onshore wind energy and only solar radiation,**
 - RES hybrid installations.

AUCTION BASKETS

Each technology group is divided into the following categories:

- > **Existing installations** (using the green certificate support system) – with a possibility to switch
 - installed capacity of up to 1 MW
 - installed capacity in excess of 1 MW

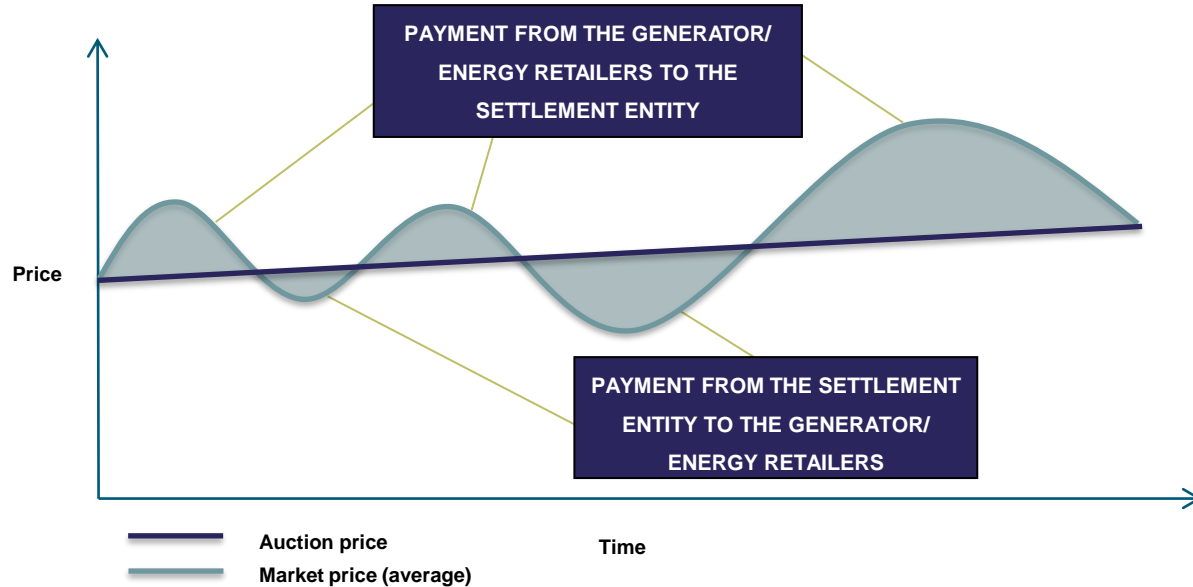
- > **Modernised installations**
 - installed capacity of up to 1 MW
 - installed capacity in excess of 1 MW

- > **New installations** (have not used the green certificate system)
 - installed capacity of up to 1 MW
 - installed capacity in excess of 1 MW

AUCTION BASKETS

- > The winner is authorised to benefit from support limited to the maximum period of 15 years (as a rule, it is the Minister of Energy who decides on the duration of the support, the length of the support period is regulated under the law, and is 15 years)
- > Depending on the size, **the winner** either:
 - sells electricity to the last resort supplier (for the price agreed within the auction) – in case of installations below 0.5 MW
 - or
 - **sells electricity on the market and has the right to compensation of the difference between the market value of that electricity and the offer price offered by the Settlement Entity – in case of installations with installed capacity of 0.5 MW or higher**
- > **The total value of support granted within the support period – the price indicated in the offer less investment aid value (state aid)**

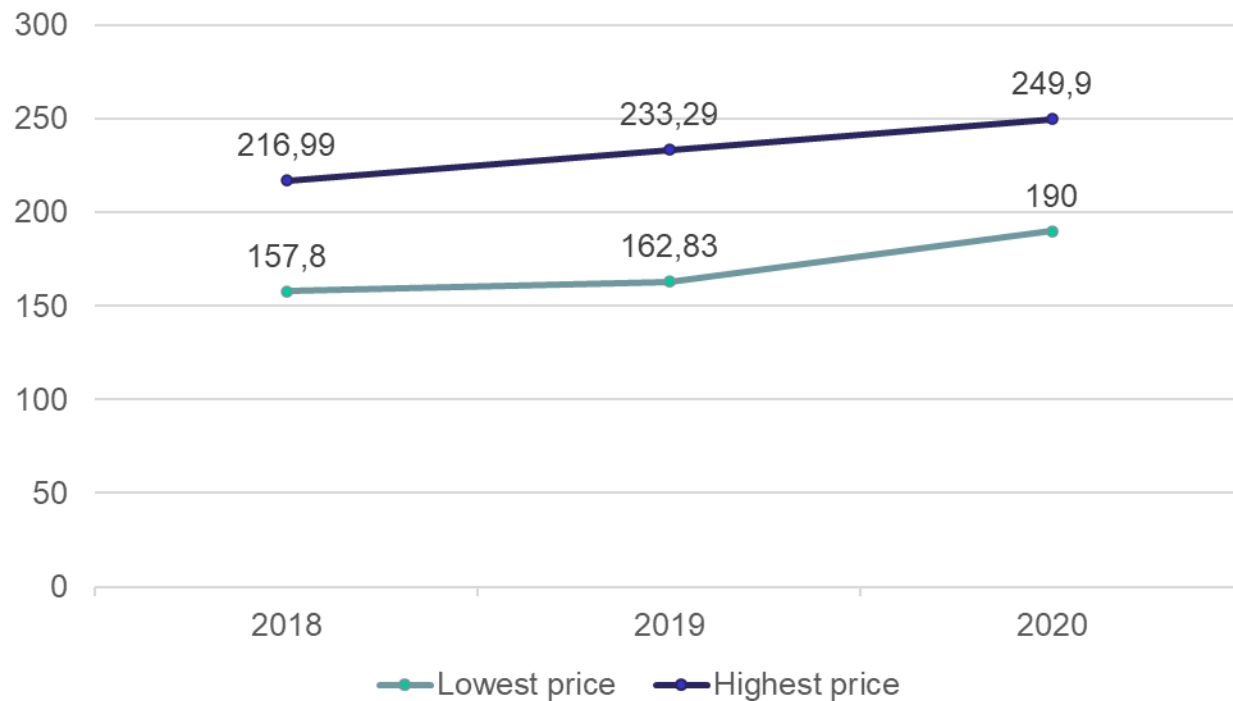
SETTLEMENT MECHANISM



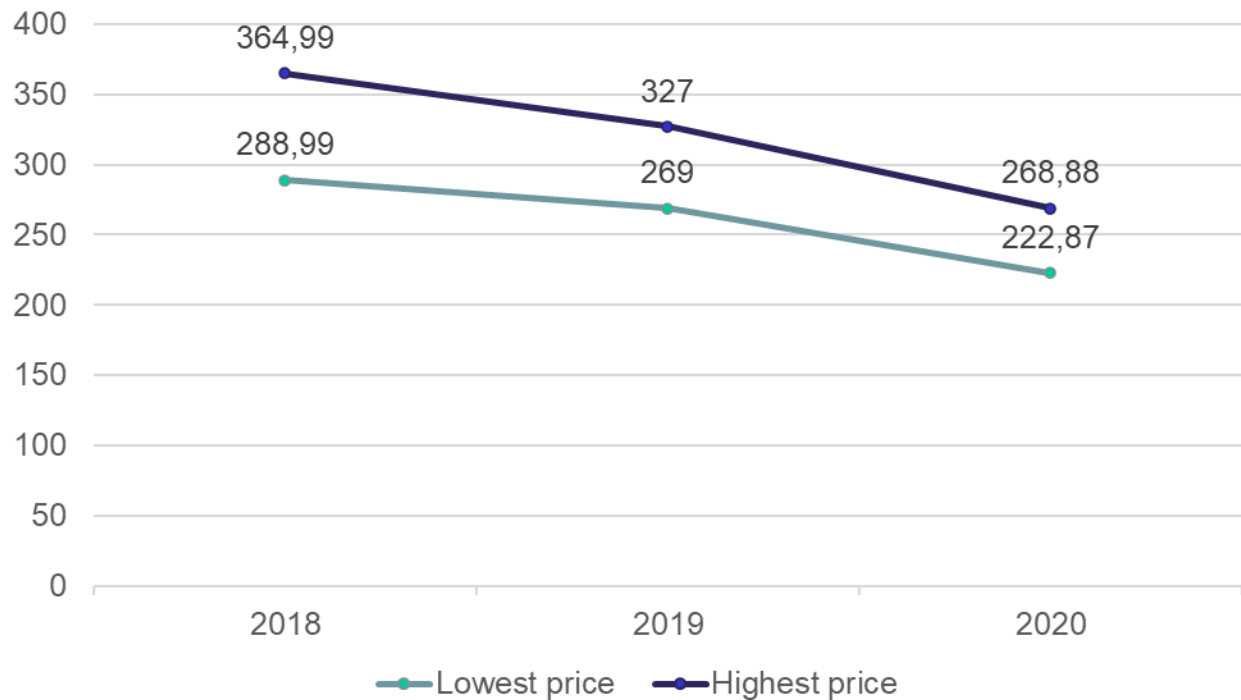
OTHER ISSUES TO CONSIDER

- > **Deadlines** for the first sale of electricity in the installation which will be built or upgraded after the auction date (42 months from the date of the auction closing date) plus separate deadlines:
 - o for installations using only solar energy – 24 months,
 - o for the installations using only onshore wind power – 33 months
- > Impact of COVID-19 on auction deadlines

AUCTION RESULTS ABOVE 1 MW (PV and wind 'basket')



AUCTION RESULTS BELOW 1 MW (PV and wind 'basket')



AMOUNT AND VALUE OF ENERGY TO BE AUCTIONED IN 2021

- > The amount and value of energy for 2021 was published at the end of 2020.
 - There are **no auctions for existing PV installations**.
- > The amount and value of energy to be contracted via auctions for new PV power plants are as follows (auction baskets also include other types of installations):
 - > For installations **exceeding 1MW** using: only onshore wind energy or only solar radiation
 - **38 760 000 MWh**
 - **PLN 10 748 400 000**, i.e. over PLN 3 bln less than in the corresponding auction of 2020.
 - > For installations **up to 1MW**, only onshore wind energy or only solar radiation
 - **14 700 000 MWh**
 - **PLN 5 292 000 000**, i.e. round PLN 0.8 bln more than the budget for 2020's auction.
- > **Reference price? Unknown yet.**
 - In 2020: up to 1 MW PLN 360/MWh, exceeding 1 MW – PLN 340/MWh
 - Based on the draft regulation on the reference price for electricity from renewable energy sources in 2021: up to 1 MW PLN 340/MWh, exceeding 1 MW – PLN 320MWh



POWER PURCHASE AGREEMENTS

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- > State of **Polish legislation**

- > **Connection** to the grid / direct line to the buyer
- > An **alternative for the auction system?**
 - Additional costs
 - Balancing
- > Recent Regulatory Office position on PV on roof-tops



SALE OF PROJECTS

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> **Before commissioning**

- share purchase agreement (SPA)
- asset deal (transfer of rights step by step)

> **After commissioning**

- share purchase agreement (SPA)
- asset deal
 - > consent of Energy Regulatory Office
 - > generation license?



INVESTMENT PROCESS

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> **Securing title to land**

- Lease agreement / purchase ?

> **Environmental issues**

- Environmental decision required for installations over 0.5 ha on protected areas or over 1 ha at all times
- Natura 2000 – environmental impact assessment required

> **Zoning / planning**

- Zoning plan / zoning decision

> **Building permit**

- Building permit required for installations over 50 kW

> **Generation license**

- Up to 500 kW not required – entry in a register (proposed amendment to RES Law sets this threshold at 1 MW)



**DRAFT ACT AMENDING THE ACT ON RENEWABLE
ENERGY SOURCES AND CERTAIN OTHER ACTS**

AMENDMENT OF THE RES ACT - definitions

- > new definition of a small installation will increase the nominal capacity of the installation, for which it will not be required to obtain a license to sell energy - from the current limit of 500 kW.
 - a small installation is to be understood as:
*"a renewable energy source installation with a total installed electrical capacity of more than 50 kW and **no more than 1 MW**, connected to an electricity grid with a nominal voltage of less than 110 kV [...]."*
 - Generators which are currently required to hold a licence, and which the new law is designed to exempt from this obligation, are to be entered *ex officio* in the register of generators performing economic activity in the field of small installations maintained by URE - within no more than 90 days from the date of entry into force of the new law. The licence is then to expire on the day of its entry in the register.

RES ACT – other changes

- > extension of the maximum period of the obligation to purchase electricity at a fixed price or the right to a surcharge on the market price of electricity under the auction system
 - until 30 June 2047, a deadline that coincides with the maximum deadline for state aid, i.e. 31 December 2027. The deadline of 30 June 2047 also includes the period necessary for the investor to fulfil the obligation to sell electricity for the first time under the auction system within within 42 months of the closing of the auction session.
- > the maximum time limit for granting public aid under the auction system is to be extended from 30 June 2021, as provided for in the RES Act, to 31 December 2027

Act of 27 March 2003 on spatial planning and development

- > Art.10 (2a)
- > Exemption of RES installations with a capacity of up to 500 kW (for standalone photovoltaics of up to 1000 kW on certain land) from the obligation to be included in a spatial development plan - as compared to the current level of 100 kW stipulated in the Act on Planning and Spatial Development.
- > Next steps?
 - Project still undergoes legislative procedure and was referred to Committee on Legal Affairs

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