

April 2020

OVERVIEW OF THE PREMISES OF THE "ANTI-CRISIS SHIELD" – PROTECTION OF THE ENERGY SECTOR, INCLUDING DEVELOPMENT OF RES PROJECTS

The President has signed the package of acts comprising the so-called "Anti-Crisis Shield." Numerous amendment to the special-purpose Act of March 2, 2020 on special measures for the prevention, counteracting and combating COVID-19, other infectious diseases and crisis situations caused by them ("the Act"), which is the core of the government's shield, will become effective. **Solutions included in the aid package for enterprises also regard the protection of the energy sector in Poland, including the execution of RES projects.**

Below we present the main premises of the amendment to the Act with respect to the execution of RES projects.

LEGAL MECHANISMS REGARDING THE DEVELOPMENT OF RSE PROJECTS	<ul style="list-style-type: none">■ Possibility to extend the deadline for the first sale of electric energy under the auction system.■ Possibility to extend the maximum age of generating units that can be used in new RES installations.■ Suspension of the time limits in administrative proceedings, including proceedings before the President of the Energy Regulatory Authority (URE).
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EXTENSION OF THE DEADLINE FOR THE FIRST SALE OF ELECTRIC ENERGY	<p>Pursuant to Article 79(3)(8) of the Act of February 20, 2015 on Renewable Energy Sources (Journal of Laws 2015, item 478, as amended) ("Renewable Energy Sources Act"), the first sale of energy under the auction support system must take place within 42 months from the date of closing the auction session (24 months for photovoltaic installations and 33 months for onshore wind farms). The Act provides for the possibility to extend the above deadlines by the President of URE, for a period not exceeding 12 months. The extension may take place at the request of the producer that won the RES auction. The President of the Energy Regulatory Office extends the deadline, and the issued decision may be appealed to the District Court in Warsaw – the Court of Competition and Consumer Protection.</p> <p>The application for the deadline extension must be justified by a delay in the implementation of the RES project caused by the COVID-19 pandemic. The Act indicates the following premises:</p> <ul style="list-style-type: none">■ a delay in delivery of equipment included in the renewable source installation, or■ a delay in the supply of components necessary for the construction of a renewable energy source installation (e.g. associated infrastructure), or■ a delay in the development of a renewable energy source installation or a connection to the power grid, or■ a delay in the acceptance or commissioning of RES installations, or■ a delay in obtaining the concession or entry in the registers specified in the Act. <p>The application for an extension of the deadline should contain the following data and elements:</p> <ul style="list-style-type: none">■ the full name and address of residence or name and address of the manufacturer's registered office,
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- the specified period of extension (not longer than 12 months),
- the name and ID of the installation (indicated and assigned during the RES auction),
- an updated bank guarantee, if established for a given installation participating in a RES auction (instead of a deposit), provided that it has been extended for at least the period indicated in the application,
- an updated schedule of works and expenditures for the project execution,
- a statement (1) of the supplier(s) of equipment included in the RES installations, or
- a statement (2) of the applicant, confirming that the delay in the supply of these facilities or the commissioning of the installation is due to the circumstances indicated above.

The application should be submitted not later than 30 days prior to the expiry of the deadline for generating energy under the auction.

EXTENSION OF THE MAXIMUM AGE OF GENERATING UNITS

Pursuant to the Act, the maximum age of generating units that can be used in a new RES installation (42 months, or 33 months for onshore wind power plants, or 24 months for photovoltaic installations) may be extended in the same way as the date of first sale of energy under the auction system, under the same application.

SUSPENSION OF TIME LIMITS IN ADMINISTRATIVE PROCEEDINGS

Pursuant to the Act, during the state of the epidemic or epidemic emergency (currently in force), the time limits for administrative proceedings do not commence, and those commenced are suspended for the duration of the state of the epidemic or epidemic emergency, including proceedings before the President of URE.

This document was prepared for informational purposes only and is of a general nature. Every time before taking actions on the basis of the presented information, we recommend obtaining a binding opinion of TPA Poland and Baker Tilly Woroszylska Legal experts.

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