



## The Anti-Crisis Shield and the energy sector – update

We present an update of the Anti-Crisis Shield alert, regarding the following regulations: the Act to amend the act on special arrangements for the prevention, counteracting and combating of COVID-19, other infectious diseases and crisis situations caused by them and certain other laws; the Act on special support instruments in connection with the spread of SARS-CoV-2 and the Act amending certain acts concerning protection measures in connection with the spread of the SARS-CoV-2 virus, jointly referred to as the “**Anti-Crisis Shield**”.

### Extension of deadlines regarding the auction system

» The amendments to the Act on renewable energy sources (“**RES Act**”) introduced by the Anti-Crisis Shield allow for the:

- > **extension of the deadline for the performance of the obligation to sell electricity from RES, and**
  - > **installation of equipment older than that specified in the regulations**
- if the delay in carrying out particular activities is caused by the declaration of a state of epidemic threat or epidemic.** To this end, interested parties may submit applications for the extension of deadlines (by no more than 12 months) to the President of the Energy Regulation Authority (URE).

» The President of the URE, when considering applications for the extension of a deadline, takes circumstances into account, in favour of the producer, in which the delay:

- > of the delivery of equipment being part of a RES installation, or
- > of the delivery of components necessary for the construction of a RES installation, or
- > of implementing a RES installation and connections to the power grid, or
- > in the acceptance or commissioning of a RES installation, or
- > in obtaining a licence or entry in the registers specified in the law

is caused by a state of epidemic threat or state of epidemic declared by way of a regulation of the minister competent for health.

### Prohibition on interrupting energy supply

» In light of the emerging liquidity problems of energy consumers, **the legislature has decided to introduce amendments to prevent energy companies from interrupting the supply of electricity, heat or gaseous fuels** in the event that a customer fails to pay their bills.

» The Anti-Crisis Shield introduces amendments to the Energy Law **restricting the possibility of suspending the supply of gaseous fuels or energy during a state of epidemic threat and state of epidemic.**

» These amendments result in a situation where an **energy company**, undertaking business activities consisting of the transmission or distribution of gaseous fuels or energy, **cannot suspend the supply of gaseous fuels or energy if the customer has delayed payment for the services provided for at least 30 days following the payment deadline.** Similarly, such a company **cannot suspend the supply of gaseous fuels or energy, even if requested by the seller.**

## RES Auctions

- »» **The Anti-Crisis Shield extends the special arrangements regarding the organisation of RES auctions applicable in 2019. These arrangements are also applicable to auctions taking place in 2020** - As in 2019, the auctions may also take place in paper form (information on where and how to submit bids will be included in the auction announcement), and the bid submitted cannot be modified or withdrawn.
- »» In principle, it should be assumed that these changes are not aimed at organizing auctions in paper form, but rather at enabling the use of the Internet Auction Platform, which has not yet been fully adapted to the recent amendments to the RES Act. Therefore, auctions taking place in 2020 are likely to resemble those in 2019 and will take place in electronic form.

## Extension of the term of connection agreements

- »» **With regards to installations which have won an auction, the grid connection agreements are to be adjusted in respect of the declared date for the first generation and sale of electricity, taking into account the extension of the deadline for first generation on account of delays caused by the declaration of a state of epidemic threat or state of epidemic as described above.**
- »» Additionally, an amendment to Article 184d of the RES Act, aimed primarily at those projects which did not win an auction last year or which intend to run this year, allows for the **extension of the term of grid connection agreements until 30 June 2022 at the latest** (thus far, it was possible to obtain an extension only until 30 June 2021).

## Employers' rights (including so-called "quartering")

- »» In the event that a state of epidemic threat or state of epidemic is declared, **an employer may**, for a specified period of time, but no longer than until the revocation of the state of epidemic threat or state of epidemic:
  - > change the system of work or work schedule of employees as necessary to ensure the continuity of operations of an enterprise or facility;
  - > instruct employees to provide overtime work in the scope and to the extent necessary to ensure the continuity of operations of an enterprise or facility;
  - > **require an employee to remain on standby for work beyond normal working hours or at another designated location;**
  - > **instruct an employee to exercise their right to rest in a location designated by the employer.**
- »» These rights apply, among others, to employers who employ workers in businesses which:
  - > carry out activities aimed at ensuring the functioning of critical infrastructure systems and facilities;
  - > are subcontractors or suppliers essential for the continuity of critical infrastructure operations, though not being part of the critical infrastructure itself;
  - > ensure the operation of liquid and natural gas stations;
  - > **ensure the operation of transmission or distribution networks, and**
  - > **are suppliers of last resort.**

## Electronic submission of reports

- » Entities which are obliged to submit to the President of the URE:
    - > monthly reports on the provision of fuel storage, handling, transportation or distribution services;
    - > reports on the types and quantities of liquid fuels produced, imported and exported, and their intended use; and
    - > information on the types and locations of liquid fuel infrastructure used,
- may submit such reports and information in electronic form.**

## Electronic notification of customers

- » For the duration of the state of epidemic threat or the state of epidemic, energy companies may provide draft agreements and/or draft amendments to existing agreements, notices on the right to withdraw from agreements and information on the increase of prices or fees for the sale of gaseous fuels or energy by way of electronic means of communication, with the customers' prior consent.

## Extension of deadlines

The Anti-Crisis Shield provides for the following:

- » **Extension of the deadline for the President of the URE to appoint a distribution system operator and a LNG system operator** ending before 31 December 2020 - until the end of 2020;
- » **Extension of the validity of decisions granting licences** which expire during the state of epidemic threat or state of epidemic - **until 31 December 2020**. Conditional upon an application for the extension of the concession's duration, submitted no later than 30 days before its expiry.
- » In cases commenced but not completed before or during a state of epidemic threat or state of epidemic on the territory of the Republic of Poland, **the deadline to supplement an application for the grant of a licence is extended to 60 days following the revocation of such a state**. In proceedings initiated between the date of the Act's entry into force and 31 December 2020, the deadline to supplement an application for the grant of a concession is 60 days.
- » In 2020, the deadline to fulfil the obligation to submit draft development plans, updates thereto and reports on the performance of development plans to the President of the URE is extended until 31 March 2021 (for draft plans and updates thereto – per Article 16(14) of the Energy Law) and until 30 April 2021 (for reports on the performance of plans – per Article 16(18) of the Energy Law) respectively.
- » The obligation to submit information on the performance of contracts concerning the purchase of natural gas from abroad for the first quarter of 2020 must be fulfilled within 30 days of the end of the second quarter of 2020.

## Qualifications of persons involved in network operations

- » Qualifications committees, appointed by the President of the URE to verify the qualifications of persons involved in network operations, whose term of office expires between 1 March 2020 and 30 December 2020, are **extended until 31 December 2020**.
- » Certificates of competence concerning network operations, as well as regarding equipment and installations, which expire between 1 March 2020 and 30 December 2020 **remain valid until 31 December 2020**.
- » The qualifications of persons involved in network operations **may be verified remotely**.

**WKB's experts are at your disposal.**

Contact: Maciej Szambelańczyk ([maciej.szambelanczyk@wkb.pl](mailto:maciej.szambelanczyk@wkb.pl))

## Critical infrastructure

- » The provisions of the Anti-Crisis Shield stipulate that, during a state of epidemic threat, state of epidemic or state of emergency, the owner of critical infrastructure, **including facilities for the supply of electricity, heat, oil, fuel or gas**, may enter the property where such facilities are located, with the assistance of a police officer and without the consent of the property's owner, **in order to carry out activities necessary for the continuity of the service's provision**.
- » The assistance of a police officer is granted **upon the presentation of evidence** to the locally competent police commander **by the owner of the infrastructure or equipment**, or their authorised representative, **confirming** that the owner, user or administrator of the property **refused them entry to the property**, including buildings. This also applies to cases where it is impossible to contact the owner of the property.

## Amendments to the Act on biocomponents and liquid biofuels

- » During a state of epidemic threat or state of epidemic on the territory of the Republic of Poland, the **quarterly reports** of entities obliged to implement the National Indicative Target **may be submitted via electronic mail**.

## Amendments to the Act on stocks of crude oil

- » **In 2020, certain deadlines** provided for in the Act on stocks of crude oil, petroleum products and natural gas and rules of conduct in situations of a threat to the state's fuel security and disturbances on the oil market **are extended**, namely those for:
  - > the submission of information on the volume of natural gas stocks;
  - > the submission of information on the actual volume of mandatory natural gas stocks held and their storage location - to 31 December 2020; where the information on the actual volume of mandatory natural gas stocks held and their storage location being current as of 1 October 2020;
  - > the submission of information on actions taken in the period from 1 January to 31 December of the previous year aimed at ensuring the state's fuel security with respect to foreign trade in or the import of natural gas and the fulfilment of the obligation to hold mandatory natural gas stocks – until 31 December 2020.

## Electromobility

- » The Anti-Crisis Shield extends the deadline of public consultations on plans for the construction of publicly available charging stations up to **45 days** (this does not apply to consultations where the deadline for the submission of remarks expired on 15 March 2020); however, these consultations may not extend beyond 31 May 2020.
- » It has been clarified that the time limit during which the distribution system operator must reach an agreement on the proposed plan begins running from the **completion date of the public consultations**.

## Collateral security and the Commodity Clearing House (IRGiT)

- » The Anti-Crisis Shield modifies the rules regarding security provided to cover deposits securing transactions settled by the Izba Rozliczeniowa Giełd Towarowych S.A. (the Commodity Clearing House). These changes are aimed at limiting the extent of the obligation to provide security in cash.